

THE
NEW DISPENSATION OF JUSTICE;
OR,
THE WAY THE "DIFFICULTIES"
IN THE
BIG SPRING CHURCH
WERE "INVESTIGATED."



"For every one that doeth evil hateth the light, neither cometh to the light lest his deeds should be reproved."



PUBLISHED FOR THE AUTHOR,
WM. C. KOONS.



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TO THE PUBLIC.

In giving publicity to the proceedings of the Ecclesiastical Courts, regarding "The Difficulties in the Big Spring Church," I have no other motive than the necessity which prompts me to defend myself, against gross misrepresentations which affect my private character; whilst I entertain the hope, that an exposition of what has been done in this case, may lead to the inquiry, how far the Presbyterian Church may be affected in its vital interests by the lawless acts of its representative bodies?

Desirous to omit nothing which might serve to elucidate the truth, I addressed the following note to the Rev. Mr. HENDERSON, to which he has not deemed it necessary to reply :

January 5, 1861.

MR. HENDERSON:—

I informed you, some time ago, of an intention to publish a review of the proceedings of the Ecclesiastical Courts, in respect to "The Difficulties in the Big Spring Church." I have thus far held the subject under advisement, thinking it worth the inquiry, whether my individual reputation might suffer by the unpublished actions of the church judicatories. I am constantly met by imputations, which I am satisfied arise out of the grossest misrepresentations of the truth; and I am therefore impelled to the necessity of adopting that mode of self defence to which I then alluded. And in doing so, it is necessary to embrace within its scope the paper upon which Presbytery based their judicial action, and as much of the evidence taken in the trial as will enable the public to judge of its real character. To avoid doing you injustice by publishing but a part of the record, I will cheerfully print any evidence which may, in your opinion, seem to impugn the correctness of any statement in the paper, with such explanations as will assist in a proper apprehension of its bearing. Please communicate in writing, subject to my disposal.

W. C. KOONS.

PRELIMINARY REMARKS.

While it is very well known to the public, that the Church of Big Spring has been distracted for years past, the causes of the protracted litigation which has grown out of the attempt made by the Presbytery of Carlisle to investigate the difficulty, is but imperfectly understood. The fact that the proceedings of Presbytery have never been published, has left much room for misapprehension and misrepresentation.

No one indued with a proper appreciation of character, willingly consents to be classed with the doubtful and suspected. "A good name," says the wise King of Israel, "is rather to be chosen than great riches." Christians arraigned and condemned at the bar of the clergy, are apt to be viewed with doubt and suspicion. Herein is the main cause of this statement to the public. With the litigants, it is a question of character. Were they to submit to the charges of moral turpitude, officially and unofficially alleged against them, they would prove themselves not only indifferent to the esteem of good men, but recreant to the highest obligations of their profession. True other considerations, intimately connected with the cause of Presbyterianism, and that of religion itself, have had their influence in determining the publication. They will be sufficiently marked in the discussion of ecclesiastical law, and the moral principles involved in the case.

That such a course should be necessary, is a matter of regret, and every constitutional remedy was exhausted to prevent it. But as Justice, Truth, and Charity were put far from the counsels and judgments of the clergy, no other alternative, consistent with a sense of duty, seems to remain but to submit the whole cause to the grand inquest of public opinion.

CAUSES OF THE PRESBYTERIAL VISITATION.

The disturbance in the church referred to, was owing to matters which will be sufficiently manifest, in presenting the judicial aspects of the case. Some months after the origin of the disturbance, the pastor of the church requested the Presbytery with which he is connected, to convene in his church *to investigate difficulties and redress grievances* which were existing therein. In accordance with this request, Presbytery, at their session, held at Greencastle, April, 1858, adopted the following minute:

"Presbytery having heard of difficulties existing in the Church of Big Spring, therefore—*Resolved*, at the request of the pastor, that Presbytery meet in that church on the 19th May, at 7 o'clock, P. M., for the purpose of investigating said difficulties, and redressing any grievances that may be brought before them, and that all persons interested be hereby notified to attend.

Resolved, That this minute be read from the pulpit at least ten days before said meeting."

RECORDS OF PRESBYTERY'S FIRST MEETING AT NEWVILLE.

"I. N. Hays was elected Clerk *pro. tem.*, after which the following paper was presented and adopted, and is as follows: Whereas, the Presbytery have assembled at this place, at the request of the pastor of the church, Rev. J. S. H. Henderson, to investigate difficulties and redress grievances existing in the congregation: Therefore, *Resolved*, That Presbytery adopt the following order of proceeding:

1. That Presbytery hear the statements of Mr. Henderson.
2. That Presbytery hear any statements to be made by any disaffected members of the congregation.
3. That opportunity be given for explanation and reply.
4. That Presbytery then proceed to discuss and decide the case.
5. That this business be made the order of the day for 8 o'clock tomorrow.

Thursday morning, 8 o'clock, Presbytery met and was constituted with prayer, and the minutes of the last meeting were read.

The order of the day was then taken up, and the Rev. J. S. H. Henderson heard as to the object of the meeting of Presbytery. After which, Mr. James McElhinny, with some introductory remarks, presented a certain paper, purporting to be the grounds of certain difficulties and grievances felt by many in the church, and which seriously implicated the moral character of the Rev. J. S. H. Henderson. Mr. McElhinny assured the Presbytery that the paper he presented contained all the grounds of difficulty." [This last sentence was inserted in the minutes at a meeting of Presbytery held four months afterwards.]

"The following paper was then adopted by Presbytery, viz:

Resolved, That the paper introduced by Mr. James McElhinny, containing charges affecting the moral character of the Rev. J. S. H. Henderson, as a member of the church of Jesus Christ and a minister of the Gospel, be regarded as charges tabled against him, and that the Presbytery do now institute judicial process against him on the ground therein contained.

The Moderator appointed the following judicial committee, to whom all the papers in the case were referred, viz: Drs. Creigh and Harper, with Rev. J. Clark and W. A. West, with Elders John Crea, A. L. Coyle and J. K. Davidson, after which recess was had for thirty minutes.

After recess, Presbytery resumed business, and the Judicial Committee reported, which report was accepted, adopted, and is as follows:

1. Implied carnal intercourse with Sarah Hardy, his hired girl, as evidenced by the facts and circumstances connected with the birth of a child in his house, December 6th, 1857; and the reported conversation of Sarah Hardy to Mrs. Miller; and the other facts and circum-

stances subsequent to the birth of the child, as stated in said paper presented by Mr. McElhinny.

Witnesses :—Mrs. Sarah Miller. Miss S. Hardy, Mary J. Koons, Lucinda Woodburn. Dr. Robinson, John M. Davidson, T. A. McKinney, J. S. Morrow, Mrs. Jane McElwain Samuel McKeehan, William Ker, Mr. Joseph Jacobs. Mr. William Green, Rev. Mr. Evans.

2. Falsehood and prevarication in his communications with members of the church and others, concerning the facts and circumstances contemporaneous with and subsequent to the birth of said child.

Witnesses—Mrs. Woodburn, Mrs. McWilliams. Dr. Robinson, Mr. Morrow, Mr. McKeehan, Mr. Ker, Mr. Jacobs, Mr. Green, Rev. Mr. Evans.

It was further resolved that common fame be regarded as the accuser in this case, and that the Presbytery meet in this place on the 8th of June, at 3½ o'clock, P. M., to hear and issue the case.

Rev. J. Clark and James McElhinny were appointed a prosecuting committee. The Presbytery then adjourned."

REMARKS RESPECTING THE PROCEEDINGS OF PRESBYTERY.

The record says, "The Rev. Henderson was heard as to the object of the meeting of Presbytery." The "object of the meeting of Presbytery" was set forth in the resolves at Greencastle, and in a paper just adopted. Explanations in regard to the "object of the meeting" were therefore unnecessary. Presbytery could not advance one step in the solution of "the difficulties existing in the church," without knowing the causes which produced them. Any remark which the minister had to make on this point, he reserved until he should "hear from the other side." He stated, however, the reason of his having asked the visitation. Reports had reached him averring that he was afraid to stand an investigation, and his action in the premises proved that such was not the case. A call was now made by the Moderator for "the statements of disaffected members." The record says: "Mr. McElhinny, with some introductory remarks, presented a certain paper purporting to be the grounds of certain difficulties and grievances felt by many in the congregation." This was coming to the point. The substance of Mr. McElhinny's "introductory remarks," was that the paper which he had to submit was designed to explain the principal grounds of *the difficulty* in the church, and that those with whom he acted desired, if agreeable to Presbytery, to co-operate with them in investigating its facts and circumstances. The Moderator decided that this was their right. The paper then went into the hands of the Clerk to be read for the information of Presbytery. As soon as the reading was concluded, the minister rose and denounced it as the greatest tirade of abuse and falsehood that was ever suspended over the head of any man. The record shows

that Presbytery "regarded the paper as charges tabled against the minister" in the first instance, and resolved to "institute process on the ground therein contained," but immediately after the "charges" already "tabled" were put in the hands of a judicial committee, and they reported charges purporting to be based on "the facts and circumstances" contained in the paper. Here we are at a loss to understand. If Presbytery regarded the paper and the charges which they pretend to have drawn from it as identical, why did they table the same charges twice against the minister? If they did not regard them as identical, why was he not tried on both counts of the indictment? Will not some of the great actors in the plot explain? After having gone through the ceremony of tabling the charges, the next thing was to get a prosecutor. During the discussion which ensued, the Moderator decided that Mr. McElhinny was the prosecutor. The responsibility of this position he declined to assume, because, as he remarked, he did not think that there was sufficient evidence to sustain the charges drawn up by the committee; but he again expressed his readiness to try the correctness of the facts and circumstances embodied in the paper which he had presented to Presbytery; which, if successful, it would strike any ordinary mind, was all that was necessary to establish the "charges" *first "tabled"* against the minister, and sufficient to sustain those also which the committee had reported, provided they were fairly based, as they purport to have been, on "the facts and circumstances of the paper." The Moderator's decision was withdrawn, and common fame was made the accuser.

A few words by way of explanation. That troubles did exist in the congregation is plain. That Presbytery, "at the request of the pastor," met "to investigate difficulties and redress grievances," is a matter of record. That Mr. McElhinny, on the part of the aggrieved, made a presentment of what they believed to be the principal causes of difficulty in the church, to assist Presbytery in the discharge of those duties which, by their action at Greencastle, they had pledged themselves to perform, is evident from the face of the paper itself. This much is beyond dispute. Presbytery evidently expected some sort of a statement. Nearly as soon as they had commenced business at Newville, they reiterated the object of the visitation, and invited statements from disaffected members; and it was suggested by a member of the body on the evening proceeding the introduction of the paper, that whatever statements aggrieved members had to make, they had better bring forward in writing. It would, he alleged, facilitate business. At the call of the Moderator, a statement in writing was produced, the correctness of which ought to have been tested at once, and then Presbytery could have issued pro-

cess with certainty on the result of their inquest. The propriety of such a course of procedure can be better appreciated when the conflicting attitude of parties is properly considered. Mr. McElhinny stated that he apprehended that the facts and circumstances of the paper were true, but he *was not positive*. The minister took issue with him, and pronounced it the greatest tirade of abuse and falsehood that was ever suspended over the head of any man. He *was positive*. Mr. McElhinny regarded them as the *real cause of the disturbance in the church*. While denying their truth, the minister took exception to that view. Here was a serious difference in regard to facts. Presbytery had no right to decide either way until they had made investigation. The simple inquiry, What is truth? would have put no one directly on trial. If, upon inquiry, the falsity of the paper had been established, the minds of the disaffected would have been relieved, and peace would have been the result. If it had left evidence of individual guilt, on the one side or the other, then it would have been time enough to try such an issue under charges regularly preferred. But Presbytery did not choose to pursue such a fair and certain mode of proceeding. They judged, in the premises, that Mr. McElhinny's statement *was correct*—that he had presented the true causes of the disturbance in the church, and they were of such a character as to warrant a trial of the minister on two grave charges. This was certainly harsh treatment, and a most radical error. It took the paper out of the hands of its authors, who were willing to assist in an examination of its allegations; caused a trial of the minister on the ground of *Fama Clamosa*; and defeated, in a great measure, an investigation of difficulties in the church, as they were apprehended by both parties.

In passing, it may be observed, that during all the discussion preceding the introduction of *Fama Clamosa* as the accuser, the accused sat silent, but that having been resolved on, he threatened to arrest all further proceedings in the case by complaint to Synod. Whereupon a motion was made "to institute a judicial investigation," and although supported by a large majority of Presbytery, it failed for want of a vote of two-thirds. It may be inferred from this, that the accused had no objection to being tried on Presbytery's charges with individual prosecutors, and that Presbytery had gone into the prosecution with no well-settled conviction of right.

The phraseology of the first charge exhibited by Presbytery, deserves notice. While it is said to be an "implied" charge, it is immediately added that it is "evidenced" by particular facts and circumstances set forth in Mr. McElhinny's paper. Taking these two terms in their ordinary acceptation, the mind of Pres-

bytery is easily ascertained. According to their apprehension of the matter, the facts and circumstances connected with a certain event contained the proof of the offence specified. If they were correct in this view, then in order to prove the crime charged, it was only necessary to prove the facts and circumstances referred to in the form of the charge.

The only fact definitely mentioned by Presbytery as "evidence" of the particular offence, alleged, was "the reported conversation of Sarah Hardy to Mrs. Miller." Here is a clear indication of the rash, indiscriminating spirit which presided! The nature of the conversations is not stated in Mr. McElhinny's paper, and at any rate, whatever influence they may have had in increasing the dissatisfaction in the church, Mrs. Miller's report of them was not legal testimony. At the instance of the counsel for the defence, this "evidence" was stricken from the charge before the trial commenced, because it was hearsay. Of course, this objection proved fatal to all the other hearsay matter on the paper. The charge then as "evidenced," narrows down to two classes of facts and circumstances—those "connected with," and those "subsequent to" the event which occurred in the minister's house. The second charge is not said to have been "evidenced" as was the first, but "his communications concerning the facts and circumstances contemporaneous with, and subsequent to, the birth of said child," are mentioned as its basis, and undoubtedly Presbytery must have considered them as its evidence. Guided by the language employed, it would be a very easy matter to bring together all "the facts and circumstances" referred to in relation to both charges, and that of itself would be sufficient to evince the utter absurdity of the whole trial, but this will be made equally clear in reviewing the verdict of Presbytery.

JUNE MEETING OF PRESBYTERY—TRIAL OF THE MINISTER.

Presbytery met according to adjournment to try their cause. We will not stop here to show how process was conducted. As occasion offers, this will receive attention. Their verdict is as follows:

"1st. That they not only find no evidence to support the charges preferred against him, but, on the contrary, they are firmly convinced of his entire innocence, and have undiminished confidence in him as a Christian man and minister.

2d. That in the progress of the investigation, it was found that Ruling Elders, James McElhinny and William Green, and William C. Koons and John M. Davidson, members of the church, were deeply implicated in taking up and circulating rumors affecting the character and ministerial standing of the Rev. Mr. Henderson, and injurious to the peace of the church.

3d. That in view of this fact, the aforesaid members of the session be solemnly admonished by the Moderator of the Presbytery.

4th. That the case of Messrs. Koons and Davidson be referred to the session of this church, to take such action as they may deem proper.

5th. That Presbytery hereby admonishes all those persons, members of this church, who have been absenting themselves from the regular worship of the sanctuary, on account of their mistaken views of duty in this case, to cease at once all such violation of their covenant vows, and to do all they can to promote the peace and harmony of the church."

Presbytery based the charges on "the facts and circumstances" of the paper; the trial, if honestly conducted, was an inquiry into their truth; and the result was "no evidence to sustain the charges." From their premises and conclusion, one of two things is inevitable, if the facts and circumstances alleged as the basis of the charges, *were proved*: Either Presbytery's charges were not legitimately drawn from the paper, or they acquitted the accused contrary to the evidence. From this dilemma there is no escape.

It may be objected, that many of the facts and circumstances embodied in the paper, could not, on account of the laws of evidence, be brought into the investigation, and that others were entirely overlooked. To this it is sufficient to reply, that Presbytery *chose the mode* of investigation, and they *conducted it* to its conclusion.

If any of the facts bearing on the charges in the paper were illegally excluded, the fault was theirs; and if any, that would have had a decisive effect on the charges formally preferred, were not inquired into through indifference or timidity, the fault was theirs also, and they were recreant to their high responsibilities as a Court of Jesus Christ. Or should it be suggested, that contradictory evidence was adduced, which had the effect to outweigh all the attested facts of the paper, we would ask for its production. We have examined all the testimony very carefully, and can find nothing in it that can have such an effect. Evidence, seemingly of that tendency, we shall print, without scrutiny as to its bearing.

We know that great stress is laid on the testimony of Sarah Hardy. Dr. Creigh passed a high eulogy on the manner and matter of her testimony, and took it as demonstrative proof of the presence of the Spirit of God. But there is room for a difference of opinion as to what weight properly attaches to her statements. Without advertng to a palpable contradiction in her own testimony, we turn to Mr. McKeehan's. We find that he was asked, "Were you a member of committee of session which waited on Sarah Hardy? Yes, sir," was his reply. "Did Sarah Hardy tell you— Objected to, on the ground that the prosecution had

no right to impeach the testimony of their own witness in this way." When it is understood that one member of this committee, at least, could have established an important fact, indirectly denied by Sarah Hardy, in regard to her conversations with Mrs. Miller, the necessity of this technical plea can be appreciated. Dr. Creigh will excuse us for not being quite as favorably impressed as he was, and as to believing that her testimony furnished any proof of the Spirits' presence, he will please except us from that number.

But where there is conflicting testimony, Courts desiring to do justice are controlled in their decisions by the *best evidence*. It is a well established principle of law, that circumstantial evidence is stronger than oral testimony.

Presbytery's charges, according to their own allegation, were "evidenced," or *based* on "facts and circumstances" of a specific character. The rule of judging testimony just adverted to, would have required Presbytery to decide in accordance with the facts and circumstances, and in opposition to the statements of Sarah Hardy, or any other witness. And yet, giving full credit to all that she did say, except what was contradictory of her own evidence and that of other witnesses, and that for which it was alleged "the prosecution had no right to impeach," did not affect any statement of fact or circumstance embodied in the paper; but, on the contrary, served to confirm some of them, as will be seen when reference is made to the testimony in support of the paper.

We know of but another excuse offered in behalf of Presbytery's action. It is alleged that there were "insinuations" in the paper, and a consequent necessity to try them in the form of charges. This, we have reason to believe, is the view of many persons. But if there was nothing more than insinuations in the paper, there was no cause of action against the minister, and it was unjust to try him.

A man can not be lawfully convicted without evidence. Evil rumors may be afloat against him. He may have done, and left undone, things which community may think bring him under suspicion, and he is *suspected*. What then? Try him on charges drawn by inference from the rumors afloat, and the facts patent in the case? We think not. The evidence might sustain all the current rumors, and yet no condemnation follow. There is no warrant to undertake impossibilities, and wise men do not usually undertake them. If the paper contained "no evidence" of the matters charged by Presbytery, then there should have been no trial. It is preposterous for Presbytery to turn round and say, "My Dear Brother, we were satisfied from the first, of your innocence, but insinuations were made against you, and the best

thing we could do was to draw up false charges, go to work as if intent on proving them, and pronounce you not guilty." This whole thing is too plain to need argument; and the only way to account for the action of Presbytery, at all consistent with the solemn nature of their transactions, and the general principles of the Book of Discipline, is to regard them as having acted under a conviction of their ability to prove the charges which they preferred. Indeed, the very language of the charges themselves shuts them up to this position, and they had better frankly acknowledge their error, or go to work and show that the evidence does not sustain the statements of the paper.

But here we would carefully guard against misunderstanding. We suppose a man may become surrounded with such a state of circumstances as to impair his good name. We suppose that exigencies often arise which justify investigation, and that investigations are always proper when the injured parties desire them. We suppose, also, that an individual may be suspected, when he cannot be legally convicted of any crime; yet he ought, when he has invited investigation, to make a reasonable and satisfactory explanation of the grounds of suspicion. The *Southern Presbyterian Review*, speaking of the principle of the common law, that every man is to be presumed innocent until he is proved to be guilty, makes some pertinent remarks on this subject. It says, "The meaning of the maxim is nothing more nor less than that no man is to be punished until he is convicted, and no man is to be convicted without evidence. But surely it does not mean that no man is to be *suspected* until he is convicted, and that a man being suspected, the community must feel towards him precisely as it feels to the notoriously innocent. Such a maxim would not only subvert common sense, but annihilate, in every case, the possibility of a trial. It is clear as noonday, that suspicion must precede investigation, and that suspicion does affect the moral status of its object. The man against whom scandalous reports are in circulation, is not on the same footing, in public estimation, as those whose names are free from reproach. He is injured to the extent of the rumor, and the church is injured in him."

Having thus, as we suppose, cleared the main issue of all objections, we proceed to inquire whether the facts and circumstances upon which Presbytery based their charges were proved on the trial. We have already remarked, that if they were proved, Presbytery erred, either in tabling the charges, or in their verdict on the testimony.

If Presbytery had such great confidence in the legitimacy of their charges and the correctness of their decision on the testimony, it is a matter of some surprise, that they did not long since

publish their whole proceedings in the case. If, as they allege, there was really "no evidence to sustain the charges," and the whole record was calculated to leave the unprejudiced impressed with a "firm conviction of the entire innocence" of the accused, and inspire "confidence in him as a Christian man and minister," the publication would have done great good. Beyond the personal benefit arising to the accused, the judgment of Presbytery would have been vindicated, and the cause of religion and Presbyterianism advanced. Why did they choose darkness rather than light? Was it because their deeds were evil?

Before trying the correctness of the paper by the evidence on record, we would observe, that much has been said about its character. Many honest persons entertain very erroneous opinions with respect to its import. This state of mind is owing, no doubt, mainly to the false constructions put upon it by the ecclesiastical courts, and misrepresentations of interested parties. Ministers of the Gospel have branded it as "a vile paper," "an atrocious paper," "a mass of falsehoods," &c.; and having pronounced it destitute of truth, they have not scrupled to ascribe the difficulty in the church to political differences and personal animosities, and its presentment to "a wicked and malicious spirit." How far such an apprehension of the case can be sustained, we shall see. Remarking that the investigation was to resolve specific charges, and that matters not tending to their support were excluded from inquiry by the laws of evidence; that the management of the testimony was in the hands of a prosecuting committee and Presbytery; that where no inquiry was made and no denial set up, (a leading member of Presbytery, as the trial proceeded, held the paper in his hands, asking such questions as he saw fit,) the presumption is in favor of the statement of the paper. We bespeak a candid consideration of the testimony that we shall adduce, in support of each specification of the paper.

THE PAPER—EACH SPECIFICATION, AND THE TESTIMONY TO SUPPORT IT.

The introduction is as follows :

"The following facts and circumstances, which, according to the best of our information, appear to be well supported, being grounds of our dissatisfaction and causes of disturbance in the Big Spring church, are respectfully submitted to aid the Presbytery in investigating the difficulty existing in the said church."

This shows that the paper was intended to help Presbytery to find out what they met to find out. The qualification imposed on the facts and circumstances submitted, was designed to prevent the Court from being misled as to their absolute certainty.

SPECIFICATION.—

"1. Mrs. Miller's report of conversations between herself and Sarah Hardy, Mr. Henderson's hired girl, commencing when Mr. Henderson lived in Dr. Rankin's house, and continuing until the fall or winter of 1854, during which, Sarah was examined with respect to her supposed pregnancy, as hinted at in the summer of 1855, and subsequently, to two members of the church, Mary J. Koons and Lucinda Woodburn, and as fully disclosed to Mrs. Woodburn in the last week of January, 1857."

The record says, "Sarah Miller was called. She was sworn. Question.—Please state to the Presbytery what you have heard about this matter, or what conversations you have had with Sarah Hardy?"

This witness was objected to, on the ground that she could only give hearsay stories, not sworn to, and that Sarah Hardy herself was a competent witness in the case. Objection sustained by the Moderator. The witness was withdrawn."

After Sarah Hardy had testified, Mrs. Miller "was recalled," and made statements showing, that she had had conversations with Sarah Hardy bearing on the facts stated, but as they were "only hearsay stories," they had no weight on the issue of the trial, and would not go directly to the point which we make against Presbytery. So we pass them. The other individuals named were not called to "give" their "hearsay stories," although nominated as witnesses by Presbytery.

"2. Mrs. Miller is a woman of unimpeachable veracity. Proof.—Henry Ferris and wife, Wm. Nicholson and wife, Margaret Steel, Joseph Laughlin, John Dunfee and wife."

Some persons had affected to disbelieve Mrs. Miller's report. It was supposed by the authors of the paper, that her neighbors would have the best opportunity of knowing her character for truth. A few of them were named that Presbytery might refer to, should it become material. But no investigation was made on this point. Presbytery found it more convenient to leave it an open question. Sarah Hardy's testimony was to be taken without doubt or exception. Glowing eulogies were to be passed on her also. In the absence of formal proof of Mrs. Miller's veracity, all this could be done with a better grace and to more advantage.

"3. Sarah Hardy gave birth to a child on the 6th of Dec., 1857, in Mr. Henderson's own house, and refused to tell its father's name."

No proof was called for in regard to the first fact stated—neither the time nor place. The thing was plain, open, and agreed upon. For evidence of her refusal to tell the father's name, see 12th specification.

"4. Mr. Henderson alleges that he and his wife were not aware of

Sarah's pregnancy, whereas from the suspicions of others, and Mrs. Henderson's own acknowledgments, there is reason to believe that such may not be the fact. Mrs. Woodburn, Mrs. Piper, Mrs. McWilliams, Dr. Robinson."

Question to S. Davidson. "Did Mr. Henderson say that he had expected this? No, sir; he said that neither he nor his family had suspected anything of the kind about the girl's situation." W. C. Koons testified, "He," (Mr. H.) "said, that neither he nor Mrs. Henderson ever suspected Sarah." "Two or three months before the birth of the child, I heard from Mrs. Woodburn what led me to suspect that the girl was pregnant." Dr. Robinson testified—"On the night the child was born, I asked Mrs. Henderson—(Objected to, on the ground that Mr. Henderson was not present, and therefore whatever might have been said it was not testimony. Objection sustained by the Moderator.) Here, upon motion, it was *Resolved*, That Dr. Robinson's testimony be allowed, with the understanding that the Defence have the right to call Mrs. Henderson to rebut it.

Dr. Robinson's examination resumed. I asked Mrs. Henderson if she had not suspected this girl of being pregnant. She replied that she had." The Doctor then went on and detailed conversations which Mrs. Henderson said she had with Sarah during the summer, from which it appeared that she had not only suspected her, but had twice charged her with being pregnant. In addition to this, Mrs. Henderson said, "The girl," (Dr. R.'s testimony,) "had continued to deny it until the last two weeks, and then the girl said, she did not know whether it was so or not." "The Defence" did "call Mrs. Henderson to rebut Dr. Robinson's testimony." In point, she testified, "As to suspicions of the girl, I had none." The other persons named in connection with this specification, and cited as witnesses to the second charge, were not required to testify. This of course was unnecessary, when the object was simply "to rebut Dr. Robinson's testimony."

"5. It is not known that any one was paying attention to Sarah either previous or subsequent to her pregnancy, and this point is strengthened by the acknowledgments of both Mr. and Mrs. Henderson, to Dr. Robinson."

Dr. Robinson testified, "I asked if the girl had a beau, or if any one was waiting on her. She" (Mrs. H.) "said none that she knew of." Presbytery did not inquire as to what Mr. H. said respecting this matter.

"6. Soon after the child's birth, there being a great deal of talk about the affair, three members of the church, S. Davidson, T. A. McKinney, and J. S. Morrow, met at Mr. Henderson's house, and informed him concerning it; and also, we understand from Mr. Davidson, suggested to him the propriety of doing something to relieve himself of

suspicion, but he objected, not wishing a law officer to be brought then on account of Mrs. Henderson's situation, and because it would receive legal attention at the proper time. J. M. Davidson."

J. S. Morrow testified—"I have said that there were circumstances connected with it, upon which some persons would entertain suspicions. I have said this to many. There was extensive talk in the community."

Question to S. Davidson.—"Did you ever go to the house with Mr. McKinney? Yes, sir. Had conversation with Mr. Henderson. Mr. Henderson remarked that it might occasion trouble to have anything done at that time. His wife was in delicate health; the girl might be injured. I gave him my opinion, and also said that if it would injure him as a minister, I would leave that with himself. This was shortly after the birth of the child." Presbytery did not ask the witness what "opinion" he had given him. It being *hearsay*, J. M. Davidson was not permitted to make evidence of S. Davidson's report of this conference, and the suggestions made to the minister.

"7. J. M. Davidson having become dissatisfied, expressed his doubts to Mr. Henderson. Mr. Henderson asked him what he would advise to be done. He replied, if there were others in his situation, he would deem it necessary to have the girl sworn, or a declaration that he was innocent. Mr. Henderson assured him, that he would do anything that was deemed necessary to satisfy members, and then did not do it."

J. M. Davidson testified—"I had already stopped going to church one Sabbath when Mr. Henderson called on me. He asked me, what would you advise to be done? I replied, if there were others in my situation, I would consider it necessary to have the girl sworn, or a declaration before a committee to set forth your innocence. He said—he was willing to do anything to relieve the minds of the church. After attending two Sabbaths, nothing being done to satisfy my mind, I left again. This conversation was within a month or six weeks after the birth of the child."

"8. In the same conversation with Mr. Davidson, Mr. Henderson, when calling on his Maker to witness his innocence, said, I need not do so, for if I were guilty, I suppose that I would do so at any rate."

Presbytery overlooked this point entirely.

"9. While Mrs. Henderson did manifest great concern, and make strong exertions to get the girl to disclose the great secret, we do not know that Mr. Henderson made any personal effort whatever to induce her to make the name of the father known. Dr. Robinson.—Mrs. McElwain."

Questions to Sarah Hardy.—"Did Mr. Henderson make any special effort to get you to tell who was the father of the child?"

No; but he told me what the law was. When he told you what the law was, did he say anything about the propriety of telling who was the person? No, sir. Did any other person? Yes, sir, Mrs. Henderson and I don't know who all. Did Mr. Henderson talk to you more than once? No, sir." But it is proper to add, that it appears in her testimony also—"Did not Mr. Henderson tell you that you ought to tell, and if you did not, the people said you would have to go to jail? Yes, sir." Dr. Robinson testified—"Mr. Henderson made no effort to my knowledge to get the girl to say who was the father of her child. I made an effort when the child was a week old, but did not succeed." W. C. Koons testified—"He," (Mr. H.) "said the reason why I did not make any effort with her was because I thought others could do more than myself." Mrs. McElwain was not required to testify.

"10. We do know from Mr. Henderson's own acknowledgments to J. M. Davidson, that Mr. McKinney and S. Davidson did advise him that something should be done, but their advice was not followed."

J. M. Davidson testified—"Mr. Henderson told me that S. Davidson had advised him, and also Mr. McKinney had advised him to have something done." Mr. McKinney was not asked to testify in the case. Presbytery did not press S. Davidson to state the substance of his "opinion." Hearsay testimony was not allowed. The precise nature of the advice, therefore, can not be determined by the record. But, considering that Sarah Hardy, Presbytery's favorite witness, said, that "he," (Mr. H.), "did not say anything about the propriety of telling who was the person," and that "I could do as I pleased about leaving the house;" that "Mr. Henderson remarked" to S. Davidson "that it might occasion trouble to have anything done at that time;" and "said" to W. C. Koons "the reason why I did not make any effort with her was because I thought others could do more than myself," the conclusion that "their advice was not followed," is pretty certain.

"11. And although we do not know that Mr. Henderson made any effort to induce Sarah to tell the father's name, yet he did not appear unwilling to derive advantage from an Elder's statement, asserting that he did make a strenuous effort to that affect the night the child was born. W. C. Koons, Mr. McElhinny, Mr. Ker, Dr. Robinson."

W. C. Koons testified—"I was called before the session. I there heard Mr. McKeehan say in Mr. Henderson's presence, that Dr. Robinson had said that on the night the child was born, Mr. Henderson came into the girl's room, and there insisted so strongly on her to tell who the father was, that Dr. Robinson had to intercede in the girl's behalf, for fear she would go into

spasms. Mr. Henderson remained silent." Dr. Robinson testified, "Mr. Henderson made no effort to my knowledge to get the girl to say who was the father of her child."

"12. The father's name being persistently concealed to the injury of Mr. Henderson's character and usefulness, there was a general desire that the girl should be put away from his house. This was not done, and he assigned various and contradictory reasons. Messrs. Morrow, McKeehan, Ker, Jacobs, Rev. Evans."

Question to Sarah Hardy.—"Did you not say that you would go to jail and rot before you would tell? Yes, sir." J. McElhinny testified, "This affair was the talk of the whole neighborhood, and much of the talk was injurious to Mr. Henderson." W. C. Koons testified, "Mrs. Gillespie first informed me of the birth of the child, and the suspicions abroad in consequence, a few days after its birth." Dr. Robinson testified, "The first intimation I had of the rumor was from persons asking me the color of the child's hair; and I regarded it as a jest. This happened the next day after the birth of the child. I soon began to find that it was too serious a matter to jest about, and accordingly when asked the color of the child's hair after this, I had but one reply by saying:—It had hair the color of it's mother's. This answer was given frequently to get rid of the subject. The rumor was general. Questions of this kind were put to me in the stores. The rumors increased until Monday week the eighth day after the birth of the child, when I discharged the patient. On that day, in order to stop the clamors, I tried to get from Sarah Hardy who was the father, but I did not succeed. She gave me some impudence, told me to send in my bill and it would be paid, &c. After this, on that day, I went and told Samuel Davidson, the Elder, that there were such rumors as were calculated to destroy Mr. Henderson's reputation."

The allegation that "there was a general desire that the girl should be put away from his house," has the appearance of having been controverted. Mr. McKeehan testified, "Mr. Henderson said that he had consulted with five or six of the leading members of the church, and they all had advised him to keep her but one." On being recalled the next day, he testified "Mr. Henderson had said to me that some persons, a majority of those he had advised with, had advised him to keep the girl." It is now "*a majority* of those he had advised with," instead of four or five to one, that favored the retention of the girl. Whether even "*a majority*" of his advisers, advised him to keep the girl, must turn altogether on the evidence afforded by the record. Upon it Presbytery founded their decision, and by it we are trying the truth of the paper submitted to Presbytery.

W. C. Koons testified—"Mr. Henderson said he had a multi-

tude of advisers. Among them, Mr. McKeehan," (and he was the only person mentioned as being of that opinion,) "had insisted that he should keep the girl." Mr. McKeehan testified, "I advised him to keep her." This was admitted in the paper. J. S. Morrow testified, "I did not advise him to dismiss her." S. Davidson testified, "Did not advise Mr. Henderson to put away the girl or to keep her." W. Green testified, "Previous to that interview had advised Mr. Henderson to put the girl away." W. Ker testified, "I went to Mr. Henderson and advised him to put away the girl." In a subsequent conversation, "I said also I might be wrong in my advice about turning the girl away." This is the whole record, so far as it involves the advice of "leading members" and all others. If any mathematician can figure out "a majority" favorable to keeping the girl, from such material, we will be pleased to see the demonstration. The fact is, Presbytery made no effort to expose the general sentiment on this subject.

"Contradictory" means opposite to,—inconsistent with. The alleged "contradictory reasons," as explained in the paper itself, are "charity, personal indifference, resentment, and convenience." The record makes the following exhibition on these points respectively :

"CHARITY."—J. S. Morrow testified, "In a conversation with Mr. Henderson, he said that he felt a difficulty in deciding what was his duty in regard to this girl. She was now disgraced. She was partly raised in his family—he felt a sympathy for her—and if he now was to turn her away that she might probably fall still further—if he could save her from infamy it was his duty to do so." Rev. Evans testified, "He gave me two distinct reasons for not putting away the girl. She was an orphan, having no other home, and he having taken her when quite young into his house, he felt it to be his duty to some extent to keep her."

"INDIFFERENCE."—Question to S. Hardy. "Did he" (Mr. H.) "ever say anything to you about leaving his house after that occurred? No, sir, he said that I could do as I pleased." W. Ker testified, "I went to Mr. Henderson and advised him to put away the girl. He said that he would leave it to Mrs. Henderson." Mr. McKeehan testified, "Mr. Henderson said he was willing to put her away provided it would satisfy the people"

"RESENTMENT."—W. Green testified, "He gave me two reasons for not putting the girl away. You people had seen proper, instead of sympathizing with him when it was likely to take such a course, to talk among yourselves, and so he thought he would do as he thought proper." Although the other reason assigned to Mr. Green does not properly fall within the scope of resentment, yet as we intend to give all the reasons on record for

keeping the girl, we put it in here. The two will do very well together. It was, "That the law would not permit him to put her away for six weeks after the birth of the child."

"CONVENIENCE."—Rev. Evans testified, "The peculiar situation of his family at that time required" (he said) "a well-qualified and faithful help in the house, and Sarah being a girl of that kind, he considered it important to retain her." Mrs. Harlan testified, "As a reason for keeping her—He said she was a better girl in her disposition. She could better manage his cow, which was troublesome with other persons."

"13. Soon after Mrs. Miller's report became flagrant, on the 15th of January, 1858, S. Hardy came to Mrs. Miller's residence, and there, in the presence of her husband, confessed having told her all that she had reported."

Question to Mrs. Miller—"Have you had any talk with Sarah within the last year? Yes; she came back to me after she had had her child." Here Presbytery let the investigation on this point rest; whether from fear of "impeaching" Sarah's testimony, or because the "confession" was hearsay, or from other causes, is of no particular importance. J. H. Miller, whom report said, heard the conversation also, was not called. Why should he have been, when "the prosecution had no right to impeach the testimony of their own witness" (Sarah Hardy) "in this way."

"14. A committee of the Session, composed of Messrs. McKeehan Davidson, and Green, on Feb. 3, 1858, waited on Sarah Hardy, and she told them that she did go to Mrs. Miller to be examined with respect to her supposed pregnancy; thus confirming Mrs. Miller's report in an essential element."

Question to Mr. McKeehan—"Were you a member of committee of session which waited on Sarah Hardy, on February 3d, 1858? Yes, sir. Did Sarah Hardy tell you—objected to, on the ground that the prosecution had no right to impeach the testimony of their own witness in this way."

The fact stated as confirmatory of part of Mrs. Miller's report, was incorporated in the paper, on the authority of one of the members of this visiting committee. The objection, for the reason assigned, is tantamount to an admission of the fact.

"15. Sarah Hardy being the primal cause of this whole difficulty, and provided he is innocent, his worst slanderer, it seems neither characteristic of Mr. Henderson as a man nor consistent in him as a Christian, to be so charitable to Sarah, and yet so hostile to some of his own members for much less offences. Mr. McElhinny, Dr. Robinson."

The testimony already adduced, fixes the source of this difficulty, in accordance with the allegation of the paper. All attempts to explain it on any other basis will, when brought to the

test, be found entirely fallacious. The hearsay evidence establishes the fact that Sarah's stories to Mrs. Miller were highly injurious, but we need not make extracts. Presbytery did not seem to relish going into contrasts of the kind presented in this specification. J. McElhinny testified, "Mr. Henderson having chastised me pretty severely, I had not attended church for some two months." Dr. Robinson testified, "I have not been attending church since some time in March. My absence was not in consequence of these rumors." These statements afforded an opportunity to examine the matter submitted. A member of Presbytery, forgetting that it was not the purpose of the body "to investigate difficulties and redress grievances existing in the congregation," was interrogating Dr. Robinson, with a view to bring the cause of his absence to the attention of the Court, but as soon as his aim was sufficiently obvious, the Moderator stopped him. This, however, was one of the unrecorded decisions.

"16. And in conclusion, we beg leave to submit, that Mr. Henderson had it in his power to fortify his character against all suspicion, to resolve the doubts of every honorable and reasonable mind, and save his church from dissension and division, had he chosen to do it. The girl's oath of the father would have done it effectually. Had he personally made every reasonable exertion to this end and failed, then but another step was necessary to complete the process of absolution and peace, and that was to put from his house an individual who, under the plea of his innocence, had forfeited by her stories to Mrs. Miller all claim on his charity and protection. It is not to be presumed that Mr. Henderson did not know individually what guards to throw around his character, neither can it be presumed that he was ignorant of what others required. Why then not attend to his paramount duties? His character, his church, and his people were on the one side, and a supposed charity for a bad girl on the other. At the loss of character, to the injury of the church and the offence of Christians, choice is made of inaction and the girl is retained in his own house."

This specification was intended to present at a glance the gist of the whole paper. The faults found are specifically mentioned. What they were, no man of sense need be told. Whether, in view of the premises, they were reasonable or unreasonable deductions, we submit to the arbitrament of others. Being a sort of general review and inference from the foregoing statements, the accuracy of this specification depends mainly on the proof of those preceding. As to the effect of the girl's oath, J. McElhinny testified, "I told Mr. Henderson that there were but two ways in which it was possible for us to settle this difficulty;—1st. The oath of the girl—which everybody would be satisfied with." What follows on the paper was added by way of explanation, and gives a more circumstantial account of the causes of difficulty in the church. It says:—

"These are not fictions of our own creation. Respecting what would

have satisfied the disaffected, we refer you to Messrs. Ker, Green, Davidson, McElhinny, A. Laughlin, Jos. Laughlin, Brattan, Col. Woodburn, Elliott, Knettle, Harlan, and others. Mr. Henderson was aware of what others required him to do in order to arrest suspicion. Mr. S. Davidson and McKinney spoke of the matter to him. Mr. J. M. Davidson told him what he deemed necessary. Mr. Ker, while the child was living, told him that his character was suffering—he should put the girl away. Mr. Green told him that keeping that girl was doing him a great deal of injury, and that he did fault him for not turning her off. Mr. Jacobs told him to put her away. Mr. Best told him if he would only put her away, that would satisfy nearly every person. Mrs. Harlan told Mr. Henderson she thought as Mrs. Henderson was now well, they should turn Sarah off. Mr. H. said, Sarah does not say anything about leaving. She also asked him if he could not have a magistrate brought and have the girl sworn. Mr. H. paused so long that Mrs. Harlan answered her own question.”

For proof of some of these matters, see testimony under the 6th, 7th, 10th and 12th specifications. Mr. Green testified,—“Faulted Mr. Henderson for keeping the girl.” Mr. Jacobs was not called. Although Mr. Best was not examined, yet he took occasion to say, that his remark was not fairly stated in the paper. What he had said was, that he told Mr. Henderson that the people said he should turn the girl away. Mrs. Harlan testified, “I asked Mr. Henderson if something couldn’t be done towards making the girl tell who was the father of the child. He said that he had done all that he could and must now leave it to his God. I did not advise Mr. Henderson to have a magistrate, but inquired as to the propriety of it.”

As reasons why nothing was done, the record exhibits as follows: J. M. Davidson testified—“Mr. Henderson told me that S. Davidson had advised him, and also Mr. McKinney had advised him, to have something done. He had also, he said, been advised by Mr. Morrow and James Allen not to mind it. He represented himself as in a strait between these conflicting opinions, and then said, if you had come in and given me your advice, it might have had some influence on my action.” W. C. Koons testified, “He,” (Mr. H.,) “repeated his question then, what would have satisfied you? I told him if Sarah had sworn the child it would have satisfied me entirely. He said, William, so sure as there is a God in heaven, if you had come to me and asked me to do that, it would have been done. Sarah was always willing to swear, but I didn’t think that it would do any good. *

* * He said that Dr. Robinson had told him that the girl was in a critical situation, and that it was not prudent then to press the matter, as bad results might follow to his patient. That Sarah’s critical condition continued until the death of her child, and that then it was too late to do anything with her.”

“Charity is the great plea for keeping the girl, but it will be seen, if

we are not mistaken, that Mr. Henderson assigned three other pleas, personal indifference, resentment, and convenience, any one of which is fatal to charity. Besides, in solving this question properly, charity for the church was a necessary ingredient.

The sense of the whole church, almost, required that something should be done. Mr. Morrow said, that there were circumstances connected with the case calculated to excite suspicion, and that it would appear that there was a good deal of familiarity between Mr. Henderson and Sarah. Mr. R. M. Hays said, he would help to lynch the girl—he would assist to mob her. Mr. H. B. McCune said, he would be very apt to have turned her out in violation of law; and Mr. William McCune, that he would have known the father before an hour. These are expressions of some of Mr. Henderson's warmest friends in the congregation. Had something been done, it would have done great good. Mr. Davidson, no doubt, thought so, when he reported to a friend, that the committee of the Session which waited on Sarah Hardy had sworn her, and that she had cleared Mr. Henderson. Mr. McKeehan's representation, that Mr. Henderson had made a very decided effort the night the child was born to get Sarah to tell who was the father, points to this fact also; and Mr. Henderson, hearing such a representation, without contradicting it, notwithstanding its falsity, tacitly endorses this view as being well founded. Such was the feeling, that we venture to assert, that not one man in the whole congregation would have been displeased, had some summary and efficient measures been taken to bring Sarah to terms, or seriously offended, had she been turned out to realize that the way of the transgressor is hard. The church has sustained serious injury. Thirty communicating members do not attend church at all, and about fifty families, including those above alluded to, are dissatisfied."

In a process of moral reasoning, it is not always certain on which side the weight of argument preponderates. The paper says, "if we are not mistaken" such a conclusion follows. The evidence on this proposition has been given under the 12th specification. If the *reasons are not* "contradictory," it is all right, and *we were* "mistaken."

The special declarations of "some of Mr. Henderson's warmest friends," were set down as an index of the general sentiment of the church. Except in a single instance, their accuracy was not inquired into. The answer in that instance having sustained the paper, may account for this delinquency. In regard to Mr. McKeehan's statement, and the minister's tacit acquiescence, see testimony under 11th specification. What follows on the paper is in no way controverted by the record. The present condition of the church is a standing evidence of the injury she has sustained.

Whether there is evidence or no evidence to sustain the "charges," it is neither necessary nor pertinent to inquire. Our aim has been to show that the proofs, on all the capital issues raised by the paper, *so far as they were made subjects of inves-*

tigation, are such as tend to establish its truth. If we have succeeded in this, it follows that Presbytery must confess that the charges were not based on "the facts and circumstances" of the paper, or that the acquittal of the accused was contrary to the evidence. We feel no particular interest as to which horn of the dilemma they may choose to take. We suppose that *some* of those ministers who assert that the paper is "vile, atrocious, and false," are honest in their opinion. But let them take the record, and produce the evidence. Why should they let judgment go against them by default? The one who is confident that "it was proved that there was positive falsehood in the paper," might come to the rescue. Should no one enter the service of Presbytery, the public will be likely to understand the reason, and we shall expect that august body to make a virtue of necessity, and be a little more modest for the future.

THE LAWS OF DISCIPLINE PRACTICALLY EXPOUNDED.

The Discipline says, Chap. IV. Sec. I. "When all other means of removing an offence have failed, the judicatory to which cognizance of it properly belongs, shall judicially take it into consideration;" and Sec. XV. further provides, that "the trial shall be fair and impartial; the witnesses shall be examined in the presence of the accused; and he shall be permitted to ask any questions tending to his own exculpation."

It will be recollected that the person formally tried by Presbytery, was acquitted, and four others, who appeared at the trial as witnesses only, were found guilty of "taking up and circulating rumors," &c. How such a verdict can be reconciled with the laws of actual process just cited, is more than we can imagine. What would be thought of a court of justice that would permit a jury, if it were possible to find one so stupid, to acquit the criminal at the bar, and at the same time find four of the witnesses guilty?

What Presbytery meant by "taking up and circulating rumors," is not very apparent. If they designed to make the impression that the four witnesses arraigned were the only persons engaged in giving currency to the rumors, it is false and contrary to the evidence before them. See Mr. Morrow's testimony under the 6th specification, and that of Mr. McElhinny and Dr. Robinson under the 12th. If they intended to describe their agency in getting information and bringing it to their consideration, it would have been easy to say so, and the ground of censure would have been evident. Their refusal to explain this ambiguity, when called on to do so, shows that they had a purpose to serve which they did not wish to avow.

Nothing need be said relative to the guilt of the four witnesses, as charged by Presbytery. It will be sufficient to put the

one court against the other. The Synod decided that there was no evidence to sustain the charge. Presbytery took no appeal. Their conversion was speedy and complete; indeed, they gave hopeful signs of a change before and during the progress of the case in the Synod. It may be well enough, however, to say that the rumors, which it was alleged these witnesses took up and circulated, had an *origin*. Presbytery should have pressed their inquiries to this point. It was their duty to discover by whom the "*general rumor* was raised," and censure them in proportion to the degree of criminality which appeared attached to their conduct.

The Elders, according to the 3d section of the report, were admonished for their imaginary crime, and citations, without date, were issued by the Session to the individuals named in the 4th section. The following is a copy:

"By the authority, and in the name of the Session of the Big Spring Church,—you are hereby cited to appear before Session on Monday the 2d day of August, at eleven o'clock, A. M., to be dealt with as directed by the Presbytery of Carlisle."

Signed, J. S. H. HENDERSON, Moderator of the Session.

The persons cited were not aware that Presbytery had directed anything in particular to be done. They had supposed, from the language of the minute itself, that it was entirely discretionary with the Session, subject of course to the laws of Discipline, what action should be taken. Imagine their surprise, then, when they were asked if they had anything to say why the sentence of suspension from the communion of the church should not be inflicted. Such a high-handed, arbitrary move seemed to them not only unwarranted by the Resolution of Presbytery, but unauthorized by the Constitution of the Church; and it was resisted by whatever powers of persuasion they could bring to bear on the minds of the Court. They were met with the precedent established by the Presbytery in the case of the Elders; and it also appeared that a correspondence had taken place between the Moderators of Presbytery and the Session respecting the law as applicable to the case. With such authority on their side, it was useless to contend for right with the Session. Time was now needed to deliberate, with a view, probably, of determining whether the parties at the bar of the Session should after all be "dealt with as directed by the Presbytery of Carlisle." They were requested to retire. In a short time, they were called in again, and the following announcement was made:

"W. C. Koons and John M. Davidson were heard in explanation of their conduct, and showing no signs of repentance for the offence of which they stood convicted, and both of them continuing to absent themselves from church, on motion, they were suspended from the communion of the church until they should show signs of repentance."

It is easy enough to comprehend how Session fell into the error they did. They reasoned in this way: "If the Elders were legally tried, and justly convicted, so were the members legally tried. We cannot doubt the lawfulness of the Presbytery's decision, and it only remains for us to inflict the sentence. If an appeal is taken, the superior court cannot condemn the principle of our action without condemning the principle of their own action." All this seemed logical and consistent. But an appeal was taken, and Presbytery, for once rising superior to the weakness of human nature, disappointed the expectations of the Session.

The appeal was sustained, in whole or in part, by the entire Presbytery, with the exception of a single dissenting voice. The judgment of Presbytery was expressed in the following minute:

"The Presbytery in sustaining the appeal of Messrs. Koons and Davidson do so on the ground that they had not a formal and constitutional trial before the Session, and that the sentence inflicted upon them was characterised by too great a degree of severity; yet inasmuch as the Presbytery have already found them guilty of taking up and circulating rumors affecting the character and ministerial standing of the Rev. Mr. Henderson, and injurious to the peace of the church; and inasmuch as it is impossible for the Session of the Church of Big Spring under present circumstances to carry out the Resolution of Presbytery in their case—therefore resolved that Presbytery do now in view of their previous action solemnly admonish these persons of their crime."

The doctrine of this minute is, that Presbytery had already found these persons guilty of a censurable offence. The record shows, that at this juncture the case was transferred to the Session to take such action as they might deem proper. What was it proper for the Session to do? Presbytery say, they "sustain the appeal, on the ground that a formal and constitutional trial" was not granted. The Session, then, ought to have instituted trial. For this object the cause was sent down. Having corrected their error in law, Presbytery should have ordered the Session to pursue it in a regular way; but instead of doing so, they took the whole matter into their own hands, and resolved to execute sentence on their own accusation, the truth of which they had referred to the Session for determination upon a full hearing of the parties accused. And what reason is alleged for this extraordinary and inconsistent procedure? Why, "it is impossible for the Session, under present circumstances, to carry out the Resolution of Presbytery." Can any one tell in what this impossibility consisted? Was there any reason to suspect that the Session would refuse to obey the behests of Presbytery? Judged by their acts, certainly there was not. And where is the warrant of Presbytery to dispense with "a formal and constitutional trial" on such a pretext as that, or on any other pretext? Governed

by the same law as the subordinate court, their affirmation of the right of trial in the case of appeal, was a virtual condemnation of the principle of their own act. Is it their prerogative to despise all law, and say "for that which *I do*, I allow not?" The execution of the sentence was prevented by an appeal to Synod.

COMPLAINT TO SYNOD.

In the meantime, a complaint was made to Synod against several supposed irregularities of the Presbytery's action in the trial of the minister. There were in all eight reasons of complaint, each of which will be briefly stated in its order, and a few remarks, by way of explanation, will be subjoined to some of them.

1. That Presbytery sought to shift the responsibility of charges preferred by themselves, which were disallowed by the complainants.

From what has been stated already, it must be evident to the most casual reader, that the charges were not in the paper, and if they were not there, Presbytery must have preferred them on their own responsibility, and were accountable for their failure to prove them. They, at their first meeting at Newville, "resolved to institute judicial process," and having done so, they took upon themselves all the responsibilities of the prosecution.

2. That censure was due to Presbytery for their hasty and inconsiderate action, and not to the complainants.

It is unnecessary to make any remarks here, with a view to show the justness of this ground of complaint, since it will be made apparent in considering the first resolve of the Synod's decision.

3. That Presbytery sanctioned compulsory means to make witnesses convict themselves, and conducted process as though they were on trial.

A single quotation from the record will suffice to establish these points:

["Witness manifesting great reluctance to answer—the Moderator was appealed to, and ruled as before—*i. e.*—That he *must* answer as to his connection with the paper; and generally, as to his action in the matter, as revealing the motives of the prominent actors in the case."]

What is this but a refinement of the tortures of the bloody Inquisition?

There are many and weighty reasons why a witness should not be treated as if on trial. He is excluded from the judicatory until called on to testify. He may be wronged in his absence, and whether present or not, he is not permitted to ask questions, explain his conduct, or adduce mitigating circumstances. He has had no notice of his offence, no time to array his cause, nor the benefit of any of the forms of the Discipline. The complainants felt that no man was safe in the Presbyterian church, if her

courts could place an individual at their bar, go through the forms of a trial with him, and at the same time convict all the witnesses in the case, without even giving them notice of such an intention.

4. That professional counsel was admitted, and suffered to use his legal arts to suppress the truth, and exclude proper testimony.

It is not worth while, at this late day, to inquire whether professional counsel, in the sense prohibited by the Discipline, was allowed in this case or not; it is sufficient to show some of the effects resulting from the admission.

The reader will remember that Mr. McKeehan was asked,—“Did Sarah Hardy tell you?” and that the question was arrested, on the ground that “the prosecution had no right to impeach the testimony of their own witness.” The objection was raised by the counsel for the defence.

When Mrs. Miller’s report of conversations between herself and Sarah Hardy, became public, there was an attempt to make light of the matter—Mrs. M.’s veracity was more than suspected. When they were brought together in Presbytery, and contradicted each other under oath, it was important, in view of existing circumstances, to have light on the question of perjury. This could have been obtained from the visiting committee, alluded to in the 14th specification, but before the first interrogatory was intelligibly propounded to Mr. McKeehan, a legal objection, not pressed, at all events by any interest of truth and justice, was raised, and the investigation ended. This committee kept a record of their inquisitorial proceedings. The member who had this report in charge, was under the impression, some time ago, that he had given it to the accused. These facts may serve to explain how the counsel was enabled to apprehend that Mr. McKeehan’s answer would “impeach the testimony of Sarah Hardy.”

The paper represents that Mr. Hays said, “He would help to lynch the girl;” that “Mr. H. B. McCune said, he would be very apt to have turned her out in violation of law;” and that “Mr. William McCune said, that he would have known the father before an hour.”

The “counsel” interrogated Mr. Hays in such a way as to bring out the following testimony:

“Never told Mr. Koons anything to justify him in putting my name in that paper. Never thought of authorizing such a thing. Never had any conversation with Mr. Koons on the subject.”

Interrogated Mr. H. B. McCune so as to get the following:

“I have never had any conversation with Mr. Koons as to the first charge or as to the second charge, or anything like it, at any place or at any time. Never anything whatever.” And Mr. W. McCune

so as to elicit the following: "Never had any conversation with Mr. Koons in which I authorized him to use my name in connection with the charges. Never anything like it."

What was the object of all this? It had nothing to do with the charges. It was not to ascertain whether these gentlemen had used or had not used the expressions attributed to them in the paper. No such thing: the design most probably was to create the impression that "Mr. Koons" had affirmed the matters denied. Mark the language: "never anything like it at any place or at any time. Never anything whatever."

Nothing could be said, then, by way of explanation. Presbytery was not so heathenish as to adopt their custom of letting the accused speak for himself. What we have to say now is, that, if such was the intention, no man could have labored to produce an impression more destitute of truth. Other examples of a similar nature might be referred to, but these will suffice for our present purpose.

An inspection of Dr. Robinson's testimony, as given under the 4th specification, will show that objection was made to receiving his statement in regard to Mrs. Henderson having suspected the girl, as *evidence*. The objection came from the counsel for the defence. The complainants were not satisfied that it was well founded. It was proved that the accused alleged, "that neither he nor Mrs. Henderson ever suspected Sarah." The complainants had supposed, if Mrs. Henderson said that she did suspect the girl, and the accused said that she did not, it was competent, on a trial for falsehood, to prove that fact. And inasmuch as Presbytery appended, as witnesses to the second charge, the names of all the persons mentioned in connection with the 4th specification, it is difficult to explain their action on any other supposition than that they looked at the matter in the same light.

5. That the Moderator was partial in his rulings to the defence.

As there were many objections by the counsel for the defence, acquiesced in by the Moderator, and some decisions of the Moderator, himself, not recorded, this point of complaint could not be made so manifest as it appeared to the complainants from hearing part of the testimony. They do not hesitate to say, however, that not one particle of the stuff adduced by nine of the witnesses called by the defence, and there was but another, had anything to do with the charges under trial, and it should all have been ruled out without hesitation.

6. That Presbytery permitted "a protest" to be filed among their minutes, which was designed to forestall an impartial trial.

This protest represents that the paper upon which Presbytery tabled their charges, "purported to be an expression of the views and feelings of the congregation towards their Pastor; that some

of their names were used in an unwarrantable manner; and they were made to occupy a false position before the assembled public;" "that they had not the privilege then of vindicating themselves;" and they "in order to prevent an erroneous opinion from going abroad relative to the origin of this difficulty," asked Presbytery to file their paper with the others pertaining to the subject.

The paper did not purport to be an expression of the views and feelings of the congregation towards their Pastor. Its introduction explained its purport, and its expressions cannot be by any fair interpretation carried beyond the fifty families mentioned at the close as being dissatisfied, except in a few individual cases; and if these persons meant, by their general disclaimer, to deny the particular expressions attached to their names, they set up a denial which they cannot sustain.

We are at a loss to know how any names were used in an unwarrantable manner. Presbytery were in search of information. The paper was designed to facilitate the search. Its authors, not knowing personally all the facts and circumstances which produced dissatisfaction, and gave rise to the disturbance in the church, furnished the names of such persons as report said knew the facts or were conversant with matters bearing on them. Was this unwarrantable? If Presbytery was to get a full knowledge of the difficulty in the church, it strikes us that this was the only way to accomplish that object. Besides, every man had his attitude before community. He was charged with knowing this or that fact bearing on the case. His conversations had gone abroad over the congregation. If he had been misrepresented, he could make it all right before Presbytery. No man's name was put on the paper with a view to place him in a false position, but that he might contribute to a proper apprehension of the difficulty in the church. It is a significant fact, that though several of these signers to the protest were witnesses, and three of them were called at their own request to set themselves right, not one of them dared to deny any fact connected with his name on the paper. It may be well enough to suggest to them, also, that all courts have power to compel the attendance of witnesses within the sphere of their jurisdiction. This regulation proceeds on the presumption, that all the facts in a case should be known, and that some persons are not willing to testify. Since it is not to be supposed that every judicatory knows the name of every such person, and what he might establish, interested parties are justifiable in presenting the names and the facts, and there is no valid ground of complaint. Had the investigation taken the course it was presumed it would, some of these protestant gentlemen would have found themselves where truth and justice required them to be.

After all these incorrect general declarations are *twice* set forth in the protest, it asks to be honored with a place among "the other papers relating to the subject," "to prevent an erroneous opinion from going abroad relative to the origin of this difficulty." This is very explicit. Do you mean to say that "an erroneous opinion had gone abroad;" and are we to infer that the paper acted on by Presbytery did not contain the real grounds of difficulty in the church? There is no use to blink matters in that way. Presbytery may have understood you, but we do not. If there are other causes of difficulty, let them be arranged, and that will do more to prevent and subvert erroneous opinions than any amount of vague general allegations placed away on file.

What had Presbytery to do with such a paper? They knew nothing about the manner in which it was brought before the congregation; nothing about the pretexts used to get signatures; they did not know whether it was a correct expression of the sentiments of many of its signers, nor whether its form had been materially changed after many of the signatures were obtained. And even if they had been assured in regard to these things, what had the statements and opinions of individuals to do with questions to be decided on evidence alone?

7. That testimony prohibited by the Discipline was admitted.

8. That Presbytery's action at Newville was in conflict with their declared purpose at Greencastle, and the course pursued defeated in a great measure the object of their visitation.

This cause of complaint is predicated on the idea that there is a clear distinction between the investigation of difficulties in a church, with a view to redress grievances, and a trial on charges regularly preferred. The former, being comparatively untrammelled by technicalities, admits of far greater latitude of inquiry. It is something of the nature of a free and full conference on all subjects affecting the interests of peace in a congregation. While the latter, being necessarily conducted under stringent rules, admits of no further inquiries than those which lie in the interests of justice. For illustration, let the effect of these two modes of procedure be tried on the paper stating the causes of difficulty in the church.

The first decision of the Moderator ruled out all hearsay evidence. Subsequent decisions were made excluding other matters from inquiry. An enforcement of these rules of evidence would have prevented an investigation of the 1st, 2d, 4th, 5th, 6th, 8th, 9th, 13th, 14th, 15th and 16th specifications. The facts and circumstances stated in these specifications, were the most potent causes of the disturbance. As affecting the peace of the church, they were all proper matters of inquiry; as affecting the specific causes of trial, they were nearly all of no consequence, and were

or might have been excluded. Had the entire thirty-eight witnesses, cited by the prosecution, been called, instead of thirteen only, Presbytery would have better comprehended the nature and cause of the dissatisfaction in the congregation.

It will have been noted that, according to the minute adopted at Greencastle, Presbytery had "heard of difficulties existing in the Church of Big Spring." The paper presented to Presbytery by Mr. McElhinny made quite a full explanation of what was supposed to be "the difficulty" existing in said church. Presbytery, by amending their record four months after their rising, have Mr. McElhinny assuring them that the paper contained all the grounds of difficulty in the church. Well, suppose that he did. What of the information received at Greencastle? According to it, there were "difficulties to investigate and grievances to redress." Was it received from a suspicious source, that action was at once taken on the mere say so of Mr. McElhinny?

It is difficult to see what Presbytery expected to gain by the amendment. If they meant to assert that they had investigated all the difficulties in the church, because Mr. McElhinny said they were all in the paper, and thus invalidate one ground of complaint, their own record was against them. If they only meant that all the causes of dissatisfaction were on the paper, then they but contradicted what some of their own members have again and again asserted. Does it not seem strange that certain Presbyters, hedged about with such a record, should insist that they have investigated all the difficulties in the church, and yet try to account for them by alleging the existence of something behind all that is on the paper, and especially so, that the very mover of the amendment should himself take the front rank in this paradoxical position.

PRESBYTERY'S DEFENCE BEFORE SYNOD.

We scarcely know how to describe this disgraceful affair. To say that it was conducted at a complete sacrifice of the law and spirit of the Gospel, would convey but an inadequate idea of its real character. Even those generous, sympathetic feelings common to human nature, were totally banished. A stranger to the Court and its business, hearing such language as "falsehood, stench off the bottomless pit, atrocious, wicked, malicious, assassin-like," &c., freely applied to persons evidently present, might have thought of an assemblage of desperadoes engaged in bitter strife; but he never would have supposed it to be a body of grave divines, deliberating on things pertaining to the peace and honor of the Church. The Presbyterian who remarked, privately, of course, that it was a most barbarous attack, did not overshoot the mark. And as if words were not sufficient to depict the villainy of the

parties seeking redress, one of the speakers gave a tragic turn to the scene. By making an inconsiderable draught on his imagination, he possessed himself of a skeleton from Newville. Not content with acquiring a reputation for playing well upon bones, the distinguished actor far excelled all the ordinary digital performances on those substances. At the touch of his plastic hand, visible proof was given that even in these days dry bones may live. It was a wonderful achievement! An amazed audience, indulging in contrasts, could not help thinking that even this abnormal creation formed no exception to the ordinary law of generation. When the tragedian retired, glowing with excitement, the Presbytery looked pleased and the Synod complaisant.

No one need be told that scurrilous language and dramatic pictures had nothing to do with the case. The question was not, What is the general character of the complainants, but what is the evidence of the particular charge alleged against them? If they "were deeply implicated in taking up and circulating rumors," &c., it was sufficient for Presbytery to establish that point. Pressing their malice, falsehood, and other high moral delinquencies on the attention of the Appellate Court, was a virtual confession of error in arraignment and judgment. But Presbytery seemed to have been made aware that their decision was too bald-faced to admit of serious defence, and hence we have this misdirected effort of desperation.

DECISION OF THE SYNOD.

The vote on the complaint was,—sustain in part, 17; not sustain, 12. The committee appointed to bring in a minute expressing the judgment of Synod, reported the following, which was accepted and adopted:

Resolved, 1. That, in the judgment of this Synod, the Presbytery of Carlisle appears to have acted with becoming seriousness, impartiality, and desire for the peace of the church, and the glory of God, in the matter of Rev. Mr. Henderson's trial.

2. But the Synod sustains the complaint as to that part of the action of the Presbytery which censures the complainants for 'being deeply implicated for taking up and circulating rumors affecting the character and ministerial standing of the Rev. Mr. Henderson, and injuring the peace of the church'—which does not appear from the testimony—and the censure being pronounced without fair trial.

3. In the judgment of the Synod, however, the paper presented by the complainants to the Presbytery at Newville, and which constituted the ground of the Presbytery's action, was, in almost every respect, ill judged, rash, and most objectionable in matter and spirit, and one which ought not to have been presented by any parties, without being prepared to table charges and to prove them. And in refusing to appear as accusers, after having presented such a paper, the parties presenting it deserved severe censure."

It was evident from the crest-fallen appearance of some of Presbytery's great champions, that even this minute was distasteful, and would have to undergo some change. The next day disclosed the cause of their uneasiness. Presbytery had affirmed and denied the right of trial in the same minute. Synod's decision stood clear of this inconsistency. By a little management, both Courts might be made to occupy the same position. The scheme was successful. The adoption of the following additional resolution, shows how effectually the Synod got roped in :

" *Resolved*, That, in order to carry out the action of Synod expressed in this minute, the Presbytery of Carlisle be and it is hereby directed solemnly to admonish these parties in the name of the Lord."

Touching the case before Synod, a report for the *Carlisle Herald* says :

" A complaint of certain members of the church at Newville against the Presbytery of Carlisle, was heard, at length. On one minor point, the judgment of the Presbytery was not sustained by the Synod. But the spirit and manner of the Presbytery was highly commended ; the persons concerned in making charges against their minister were declared guilty of great wrong, and deserving of severe censure, which the Presbytery was directed to administer."

Some time after the publication of this article, we sent a friend to the *Herald* office, instructed to ascertain the name of the author, that we might have the happiness of a further acquaintance with him. The Editor, for reasons quite satisfactory to us, felt some hesitation in acceding to our request, without consultation with the reporter himself. An interview was had, but the reporter, owing to his modesty, we presume, declined being known.

The first resolve of Synod was doubtless intended to salve the sore of the second, and it shows how egregiously men can be imposed on by misrepresentations. It says : " The Presbytery of Carlisle *appears* to have acted with becoming seriousness, impartiality, and desire for the peace of the church," &c. An examination of the law and the facts in the case will serve to dispel this *appearance*.

There are but two modes by which process can be commenced, and in either the Book provides securities against going to trial on insufficient evidence. It says—"The testimony of more than one witness is necessary to establish any charge." "A general rumor," the only basis of a common fame trial, must possess certain well-defined elements before process can be lawfully undertaken on its authority. The Discipline says :

" In order to render an offence proper for the cognizance of a judicatory on this ground, the rumor must specify some particular sin or sins ; it must be general, or widely spread ; it must not be transient, but permanent, and rather gaining strength than declining ; and it

must be accompanied with strong presumption of truth." And, as if this was not enough, it is added that "taking up charges on this ground of course, requires great caution, and the exercise of Christian prudence."

Suppose, now, that the paper, which Synod says "constituted the ground of the Presbytery's action," answered fully to this description of a general rumor, and suppose there appeared to be two or more witnesses to support each charge, was there any evidence to satisfy Synod that Presbytery "exercised great caution in taking up these charges." It is true, that there were loud protestations of great tribulation and anguish on the part of Presbytery in making up the issue, but this was all a sham. The record shows how the thing was done, and it was the only evidence properly before the Court. Presbytery, without the slightest investigation, determined to table the charges, and they were only brought to a stand, when they began to look for a prosecutor. But this is assuming too much. The paper does not specify the particular sins alleged by Presbytery. This view, we think, has been clearly demonstrated already. If such is the case, judge how Presbytery were enabled to see the accompanying strong presumption of truth.

Thus the analysis of a general rumor, and the proceedings of Presbytery when brought together, do not coincide. There are irreconcilable discrepancies between them. No safeguards are provided against hasty and inconsiderate charges by Common Fame, except in a strict adherence to the description of a general rumor, as laid down in the Book of Discipline. This is an indispensable preliminary. And as provision is made, [Chapter III, Section VI.,] for cases "which do not fully amount to a general rumor, as just described," the trial was wholly uncalled for, and without any legitimate basis, and there was not the least foundation in law for the Synod's equivocal commendation.

The trial, as it affected "the peace of the church," was even more unfortunate than Presbytery's interpretation of the law of a general rumor. Instead of composing the difficulty, the dissatisfaction has been constantly increasing, and the number of absentees at this time is more than doubled. A few more such tranquilizers would insure "the peace of the church" very effectually. But laying aside, as Synod did, the record, it was easy for them to be misled. It was asserted by Presbytery, that only two or three persons in the congregation were dissatisfied, and one individual was mentioned by name as the originator of the whole difficulty; that is, influenced one or two others. We commend these allegations, in connection with the known and universally admitted facts in this case, to the consideration of men professing to teach truth and righteousness both by precept and

example, but whose conscience permitted their utterance for the purpose of injuring the cause and character of parties pleading for right and justice.

Had the Synod pronounced Presbytery's action irregular, unjust, and unwise, and well calculated to produce mischief in the congregation, although it would not have been such an agreeable panacea, it would certainly have been a much more creditable decision.

The second resolve sets aside the whole verdict of Presbytery, with respect to the four witnesses, which they pretended to have found guilty of a certain crime. The *Herald* reporter calls this being sustained "on one minor point." One minor point, indeed! that is to say, *none* of the principal points of complaint were sustained. Then it is added, "But the spirit and manner of the Presbytery was highly commended." From all this, we would have supposed that Presbytery were jubilant over the result, had we not witnessed their disappointment at the "one minor point," coming out as it did. We do not know that this reporter was in any way interested, or experienced any unpleasant reflections in consequence, but it may have been, and his rather singular combination of diminutives may have been intended as a personal sedative. If so, we hope that at this advanced stage of the controversy, it will not disturb his equanimity to say that the point sustained was a great and vital one. The Synod vindicated the right of trial before sentence, and the necessity of evidence to warrant conviction. If this is not fundamental, we know not what is. Mere newspaper reporters may sneer at it, and affect to whittle it down to "one minor point," but they will not succeed, until Christians become worse than heathens, and men apostate to their dearest rights.

A very slight degree of reflection will convince any candid person that no presentment of facts and circumstances bearing on a case undergoing investigation, could be "in almost every respect, ill-judged, rash, and most objectionable in matter and spirit," on the sole ground of the intrinsic character of the matters presented. It is not necessary to state the legal, moral, and logical consequences to which such an assumption would lead. We will content ourselves with saying, that if the Synod meant to so affirm, they have reached a point of moral turpitude below which it would be difficult to descend. If they did not mean that, then it must come to this, that they regarded the paper as being essentially false in all its leading statements, and absurd in its prominent inferences. Having had occasion, in reviewing the decision of Presbytery, to bring the facts and circumstances of the paper and the evidence to sustain them in juxtaposition, we leave that chapter in the history of the case to vindicate the

truth of the paper and the propriety of its presentment. It may not be improper, however, to add the opinion of an eminent D. D. He says:

"I feel constrained to dissent from the judgment of the Synod of Baltimore, touching the character of the paper submitted to Presbytery. It might have been improved, perhaps, in some respects; but, in the main, it strikes me as a calm, dignified, and becoming document. It is simply an answer to a question proposed by Presbytery. It purports to set forth the facts of the case, into which, by invitation of Mr. Henderson himself, Presbytery was inquiring. How the 'matter' can be objectionable, unless it is false, I cannot imagine. Of the 'spirit,' every one will judge for himself; to me it seems neither intemperate nor unchristian."

According to the judgment of Synod, "the complainants presented the paper" Let us examine on what authority they arrived at this conclusion. The record shows that Mr. McElhinny put the paper into the hands of Presbytery. It is evident, therefore, that the Synod did not consider the presentment as consisting in that act only. A number of individuals, besides the complainants, furnished matter for the paper, and thus assisted in its preparation. This fact, and their names, were in evidence. Had this anything to do with the presentment? From the restrictive nature of the minute, it might be inferred that it had not; and in a logical aspect, it might be doubted whether any paper was presented to the Presbytery. Certainly it was not on the showing of the record, that Synod determined that the complainants presented the paper, nor in accordance with any principle of justice that they were made to bear all the consequences of that act.

The twofold object for which Presbytery met, will be kept in mind. The trouble and grievances in the congregation were supposed to have grown out of the existence of the facts and circumstances detailed in the paper. To prove that fact was one thing, to prove individual guilt was another. For the purposes contemplated by the Court, and the persons appearing as informants, it was not necessary, it was not even proper, that charges should be preferred and an exclusive tendency given to the investigation. As Presbytery had never sought to know whether any person or persons were prepared to table charges, Synod, in reviewing their action, could not ascertain that the complainants were unwilling to do so. And in addition to all this, if we are not mistaken, an individual cannot be both an accuser and a witness in the same cause; and if such were the case, it is certain that his credibility must suffer from his *interest* in the result of the action. Considering what it was expected the complainants could substantiate in the investigation, and what they actually did prove on the trial, it looks well for the Synod to insist

that they should have assumed a position to vitiate their testimony.

Granting that the complainants did refuse to appear as accusers, that furnished no legal ground for an arbitrary censure. The person who undertakes to make out the charges, [Discipline, Chap. V., Sec. V.,] is the prosecutor, and he shall be previously warned (the complainants were not) that if he fail to prove the charges, he must himself be censured as a slanderer of the gospel ministry. A general rumor, [Discipline, Chap. IV., Sec. III.,] may be raised by the rashness, censoriousness, or malice, of one or more individuals. When this appears to have been the case, such individuals ought to be censured in proportion to the degree of criminality which appears attached to their conduct. These are all the offences that could possibly warrant the exercise of arbitrary punishment under either mode of process. Any one can see that "refusing to appear as accusers," after having presented information which Presbytery had invited to be brought, is not to be confounded with either of these offences, and therefore there was no power to order sentence without trial.

But "the refusal to appear as accusers," is entirely mythical. There is no evidence either in or out of the record to support it. As has been stated, Mr. McElhinny was asked and refused *to prosecute Presbytery's charges*. So great was the haste, that time was not taken to inquire whether he would or would not have been the accuser on other charges. His proposal to test the correctness of his paper, as explanatory of the difficulty in the church, was sufficient to meet all the responsibilities of his position. He was not of opinion that proof of the facts and circumstances narrated in the paper, was tantamount to the proof of the charges he was asked to prosecute. The other complainants were not then known as having had anything to do with the preparation or presentment of the paper. These are the facts in the case; yet Synod would have it that the complainants refused to appear as accusers, and for such refusal they deserved severe censure in the name of the Lord.

And hence, the *Herald's* reporter, in dishing the matter up for the public, is at fault again, but in a very slight degree, considering. The difference between the official report and his, is only that between "being concerned in making charges" and that of *refusing* to make them; and of being "declared guilty of great wrong," and that of having acted very indiscreetly. No doubt, he was more intent on signalizing certain ideas, than he was of preserving the tenor of the Synod's decision. There are persons so constituted, that when they mount a particular hobby, they will, in spite of every obstacle, insist on riding it to perdition.

After having censured the Presbytery for pronouncing judgment against the complainants without giving them a "fair trial," it would seem strange to the uninitiated, that the Synod should fall into the very same error themselves, and it would seem stranger still, that the coincident error should hold good not only in law but also in fact. If it did not appear from the testimony that "the complainants were deeply implicated in taking up and circulating rumors," &c., neither did it "appear" from the testimony, that they "refused to appear as accusers." But persons acquainted with the mode of doing business in ecclesiastical courts, would not feel surprised at this. Regardless, as they appear to be, of all the forms of the constitution and the essential principles of justice, what need they care for consistency!

The censure ordered to be inflicted, does not correspond with that said to be deserved. If the reporter for the *Herald* really expected to raise the Synod's decision, in this respect, to a logical status, he has shown himself incapable of appreciating impossibilities. With the official paper before him, no sensible man could be persuaded that "the Presbytery was directed to administer" "severe censure." Truly, the cause and the service reflect credit on each other. Look at his grammar, the vain boast of high commendation, the "one minor point," "making charges," being "declared guilty of great wrong," and the assertion that "Presbytery was directed to administer severe censure." This skulking reporter had as well tarry at Jericho till his beard grows. With care and close application, he may one day qualify himself for the position to which he aspires. The great danger is, that his indiscretion and impertinence will kill him in advance. His cowardice seems to be his strong point. So long as he takes shelter behind an editor, he is comparatively safe.

We might go into an argument to show that Synod assumed *original jurisdiction* where they had none, and ordered an inferior Court to usurp jurisdiction, where the Book gives them none, but why should we? To continue the assault on principles of law, after the Synod have been convicted of illegal action on other points at issue, and in the face of the fact that they stand self-condemned on their own record, seems too much like pelting away at an adversary who has thrown down his arms and ceased all resistance. The ridiculous attitude of the Synod is no doubt, in some measure, attributable to the intrigue and duplicity of Presbytery.

THE APPEAL TO THE SYNOD.

The appeal from Presbytery's action at Dickinson, was withdrawn. As the Synod had acquitted the complainants of the charge which gave rise to the appeal, its prosecution seemed use-

less, but this was a mistake. It was afterwards discovered that the appellants, not having prosecuted their cause, left themselves *technically* subject to the censure which had been arrested. Although Synod had officially determined that Presbytery had erred in their finding against the parties appealing, yet some members of Presbytery, being, when it suited their purpose, more religiously attached to the forms of law than the propriety and morality of things, felt that the Presbytery would be compelled to pronounce the admonition. One very devoted legalist of the aforesaid stripe, took occasion to relieve his conscience by giving notice that the ease would be taken up and disposed of just as though no judgment had been rendered by the Synod. And it was only because the power of some of these men was unequal to their malice, that Presbytery did not array itself in moral rebellion against the Synod, and commit the solemn farce of admonishing, in the name and by the authority of the Lord Jesus, persons for an offence, which, according to a judicial decision, and the virtual admission of Presbytery itself, had no foundation in fact.

THE MEETING OF PRESBYTERY TO "FINISH" THEIR "JUDICIAL BUSINESS."

Before the adjournment of Synod, Presbytery resolved to meet in Newville "to finish our" (their) "judicial business;" that is, inflict the admonition ordered on the complainants. Whether they did not know that these parties had a further constitutional right of appeal which they might exercise, or, whether in their eagerness to enjoy the entertainment so long deferred, they forgot all about it, it would be idle to speculate. At any rate, they resolved to meet and finish their judicial business. As was expected, the occasion brought together, without regard to distance, the greatest epicures of the species of enjoyment promised, belonging to the body. Being disappointed in their expectations, they served themselves with a dish even more savory than that with which the Synod prepared to feast them.

When ready to proceed to the business of the meeting, Mr. Davidson asked permission to make some remarks, and Presbytery, being just then in a liberal frame of mind, extended the favor beyond the demand, and accorded to the others, as well as himself, that privilege, on condition that the remarks should be respectful to Presbytery. Mr. Davidson hoped, if anything disrespectful occurred in the progress of his observations, the Moderator would immediately stop him.

With this understanding, he proceeded to review, to some extent, the extraordinary nature of the transactions by which he, and those with him, had been brought to occupy the position of guilty men before the Church and community. During their

delivery, no exception was taken to his remarks. As much has been said about the unwillingness of the parties accused to stand to their paper, a short extract from Mr. D.'s speech, will show how he put the matter before Presbytery. He concluded by saying.

"As the Synod of Baltimore has made our offence to consist in presenting the paper laid before Presbytery, without being prepared to table charges, we must insist that it is our unquestionable right to have an opportunity to prove it in every particular. When it was presented to Presbytery, Mr. McElhinny asked whether we might appoint a committee from our own number to substantiate it. But it was taken out of our hands, and made to subserve a purpose for which it was not intended. We have always been willing to make an issue on its facts and circumstances, in order to show their existence as causes of disturbance in the church, and now there is a peculiar necessity for it. Give us an opportunity to do so; if it is possible, we must have it. If the paper is but a 'conglomerated mass of falsehoods,' nobody has anything to fear but ourselves; if it is true, it ought to be known for other reasons than that of our own exculpation."

At the conclusion of Mr. D.'s remarks, Mr. Elhinny referred to the irregularity and injustice of the proceedings in the case, without being reminded of any expressed disrespect. The other party then added a few words to show the importance which he attached to the request which had just been made for an investigation on the truth of the paper originally submitted to Presbytery, that he and those in like condemnation might set themselves right before the public. Neither was he advised of any transgression of the rules of decorum.

Then came the offence which excited the ire of this august judicatory. By a gesture of the hand, the Moderator indicated a conspicuous position which he wished the parties to occupy, while he should discharge the important executive duties devolving on him by virtue of his official distinction. At this juncture, one of the parties rose and said, "It is necessary to inform Presbytery that we have appealed to the General Assembly." This is precisely what he said—no more, no less. The Moderator immediately responded, "That of itself is a censurable offence—the information should have been given at the outset, but," added he, "Presbytery will overlook it, as they have done a great many other things, and take notice of some other matters." And he did notice the other matters in a style quite peculiar to himself. Presbytery then adjourned to meet the next morning at Mr. Henderson's house, and everybody supposed, and so did Presbytery, that the affair was terminated, but this was a mistake on both sides.

Soon after the adjournment, it was discovered that accounts were not squared by the Moderator's reproof, "for the bad

spirit shown and the false statements made," and that something more efficient would have to be resorted to in order to prevent the authority of the church from being subverted. To be sure, they had put themselves in an awkward position. Mr. Henderson regarded his house as an unsuitable place to finish the business in accordance with its supposed exigencies; but this could be remedied by runners through the village, and having the bell rung to announce the meeting in the church. So it was all agreed upon; the antidote was prepared; and by obtaining the help of some active partisans and the ringing of the bell, Presbytery secured quite an audience in the church to hear, more definitely, what had transpired threatening the authority of the Church, and the means of her salvation. The minutes of the previous day's meeting were read, and are as follows:

"On motion, at their request, the parties to be admonished were permitted to address the Presbytery, which each of them did at length. Then, when called upon to receive the proper admonition, they informed the Moderator that they had already appealed from the action of the Synod of Baltimore to the General Assembly;—and stated that they had embraced the opportunity that the Presbytery had given them to speak, merely to influence the assembled congregation. They were reproved by the Moderator for the bad spirit they had shown, and the false statements they had made.

The Presbytery then adjourned, with prayer by Mr. Morris, until 10½ o'clock the next morning."

It is usual, we believe, when Presbytery adjourns to meet at a different place, to record the fact, but in this instance it was carefully suppressed. Had they stated, in their minutes, that they adjourned to meet at Mr. Henderson's house, the reason of their meeting in the church would have needed explanation, and it would have been no easy matter to conceal that their action therein resulted from a change of mind, occasioned by brooding over the disappointments of the previous day.

There was some fine speaking on the motion to adopt the remedy devised to preserve the authority of the church. One member fought like a hero an imaginary foe, returning again and again to the conflict. Another expatiated on the aggravated nature of the offenses committed, and the solemn fact, that what was about to be done on earth, would be done in heaven. He had no doubt that excommunication ought to be inflicted; he had no doubt that it would be, if a full Presbytery were in attendance; and, furthermore, he had no doubt that such a fate awaited these, and some others, at the next meeting of Presbytery. Having reduced themselves to safe dimensions, by a very interesting and edifying process, they unanimously adopted a paper which says:

"WHEREAS, the Complainants, Messrs. McElhinny, Koons and Davidson, have shown a litigious and unchristian spirit in the prosecution

of their complaint—Book of Discipline, Sec. 3-4—and have manifestly set at naught the authority of the Presbytery, and have failed to respond to its courtesy and forbearance, but on the other hand have made an unworthy use of the clemency of the Presbytery, for the purpose of influencing the public mind against the authority of the church, as represented by the Presbytery of Carlisle, and the Synod of Baltimore.

Therefore, Resolved, That James McElhinny, William C. Koons, and John M. Davidson, be and are hereby suspended from the communion of the Church, until the next regular meeting of Presbytery.

Resolved, That this paper be read from the pulpit of this church next Sabbath morning."

These minutes were not adopted as a whole by Presbytery; they were only read over and subscribed to as correct. They were not at the next regular meeting of Presbytery, which it was supposed would cut right and left with the sword of excommunication, for approval, but, by order, were brought to Shippensburg. They excited attention and led to debate. Contrary to what might have been expected, in regard to a document read over and endorsed as true by all present, the members of the Presbytery in which it originated, were not agreed among themselves. One thing, which is a matter of positive declaration in the minute, and which was positively averred by a majority of the Presbytery, was, in the language of the minority, an *inference* only. A motion was made to appoint a committee to examine into the facts in the case. The Moderator announced that if the motion prevailed, he would constitute the committee by the appointment of those who had framed the minutes. Truly, that would have been a committee! A proposition was also made to substitute the word misrepresentations for "false statements."

This change seemed to meet with very general favor, and might have been introduced, had it not met with an ecclesiastical "smasher." An official rose, and said, "I have learned, from different sources, that I was accused of having tampered with the minutes of the Presbytery on another occasion. I, therefore, feel desirous that you should sustain these minutes without modification." Suppose a civil functionary, subjected to an examination for theft, should say to the investigating court, "Gentlemen, this is the second accusation of the kind, I, therefore, think you ought to drop the whole matter without any further inquiry." What would be thought of his plea? Would it not be supposed that he had damaged his cause unwittingly? But such was not the effect in this instance. The verbal change was not made, nor was the motion to appoint a committee adopted. It is a great point to understand the constitution of courts. An argument, fatal to a cause in one court, succeeds in another.

The first point which we shall notice in these remarkable minutes, characterized with a supreme regard for truth, is that

"When called on to receive the proper admonition, they informed the Moderator that they had already appealed from the action of the Synod of Baltimore to the General Assembly;—and stated that they had embraced the opportunity that the Presbytery had given them to speak, merely to influence the assembled congregation."

One person only having "informed the Moderator" that an appeal had been taken, the minute is incorrect in stating that "they informed the Moderator," &c. The remainder of the sentence is without a shadow of foundation in fact.

The time that this declaration is alleged to have been made, is not left open to dispute. It was after all the addresses were made, and "when called upon to receive the proper admonition." This much is settled, then—it was neither *before* nor *after* the notice was given, but at that particular time. Now to have made them all equally liable for such a declaration, at that particular time, involved the necessity of representing them all on their feet at once, and each one for himself stating that he had appealed to the Assembly, and had spoken merely to influence the assembled congregation. The thing was too transparent to bear inspection for a moment. Here was a difficulty. But smart men are equal to almost any emergency. One of that stamp thought to obviate it, by alleging that the persons to be admonished put their heads together, and whispered. Very well, suppose they did. Nothing was said about the whispering having been overheard. The operation of putting their heads together, would very much reduce the probability on that score. How, then, was it known what they said to each other? At least it looked like *conjecture*. Had the individual who gave the notice of the appeal, really said, after the whispering, that the addresses were for the mere purpose of influencing the congregation, would it have been fair to record his foolish declaration against the others, just as though they had said so themselves, or he had spoken by acknowledged authority? We think not. And yet this is the very best construction admissible with this expedient to explain the record. But the fact is, there was no whispering done by the parties, either before, or after, or at the time the notice was given; there was no understanding between the parties that such a declaration, as the record attributes to them, should be made by any one, at the particular time mentioned, or at any other time; and at no time did any one make such a declaration.

It is useless to contend about "the bad spirit" alleged to have been shown. Presbytery may have *thought* that such a spirit was shown. Mistakes of that kind occur frequently; but where a simple denial would not be satisfactory, it would be difficult to make them apparant by any process of reasoning. Declarations concerning matters of fact, are not thus embarrassed. They can

and ought to be submitted to the force of evidence. Presbytery had no right to make a record charging "false statements," until they had joined issue and instituted proof. They might have believed them false, but that was their opinion only. The persons making the statements, made them in good faith, and they have no hesitation in saying, that it was much easier for Presbytery to pronounce them false, than it would be for them to prove them false.

Were it true that the "complainants had shown a litigious and unchristian spirit in the prosecution of their complaint," that was the business of the Synod. They had endeavored to deport themselves in a becoming manner before that judicatory, and if they failed in that respect, it was an impudent assumption of power for Presbytery to castigate them for such a delinquency. Men sometimes fight with imaginary objects, and sometimes mistake their own identity. It is possible that a Presbytery, under the influence of these idiosyncrasies, should mistake itself for a Synod.

With this matter counted out, there remains but a solitary cause for the act of suspension. Whatever else appears as its basis, is only a different way of stating the same thing. The cause is this: the persons subjected to censure made their remarks, before they told Presbytery that they had appealed. This is the whole of it. No amount of varnish can conceal it. The Moderator, perhaps not then fully appreciating the dangers which beset the Church in consequence, gave assurance that this would be passed by without notice. But his promise aside, and giving Presbytery the benefit of their own statement, the suspension was for abusing their clemency with an intent to subvert the authority of the Church, as represented by the Presbytery of Carlisle and the Synod of Baltimore.

The abuse of clemency is not necessarily a vicious act. It may be done through mistake. In all cases, an opportunity for explanation ought to be granted. Presbytery acted as if the complainants, as they are pleased to call them, knew that under the circumstances they had no right to a hearing. The fact is otherwise. Taking into consideration the reckless character of the assault made upon them by Synod; that they had been condemned by that body for presenting a paper, which, in their judgment, "constituted the ground of the Presbytery's action;" and supposing that the issue of the cause in the Assembly would depend mainly on the truth of the paper, they felt that they had a just right to make such a review of the history of the case as would expose the errors and the injustice of the whole proceedings in both Courts, and if possible induce Presbytery to order an investigation on the facts of the paper, as was desired at its

presentment. These were their views. Of their sufficiency, every one can judge for himself. They were, at least, mitigating circumstances, and these are always to be taken into consideration in determining the character of an offence. If oppression makes a wise man mad, might not some allowance be made for "rash" and indiscriminating men. When Presbytery *knew* that no remarks were admissible, if an appeal had been taken, since there is reason to believe that some of them had intimations of that fact, why did they not inquire at the outset? And besides this, they had public notice at Dickinson, that no censure would be received without a trial.

It is an article of the Presbyterian faith, that all Councils may err, and many have erred. The Church, therefore, lays no claim to infallibility, and has no authority to maintain error. The attempt of the persons suspended, to point out the errors of the Courts in the case, with a view to obtain partial redress, was, in their opinion, no attempt to subvert any rightful authority of the Church, no matter by whom it was represented. Their action, taken in its widest latitude, but put the Presbytery and Synod on trial before the public, with their statements on the one side, and the records of these Courts on the other. The Moderator, addressing the same audience, made the closing argument, reproving them for the "bad spirit shown and the false statements they had made." Was the result likely to endanger "the authority of the Church?" Were "the false statements made" likely to prove more than a match for the Moderator's argument? Was there an actual necessity, in order to maintain the authority of the Church, to forestall judgment, not by another appeal to reason, but by bringing down the censures of the Church? Extreme cases require extreme remedies. On reflection, Presbytery must have felt that the contest was very unequal. The parties at their bar had no idea of carrying such consternation into their ranks. Their success must be regarded as another evidence of the power of truth in conflict with error.

When a judicatory has complied with all the conditions of the Discipline, regulating cases of actual process, and has taken into view all the circumstances which may give a different character to conduct, and render it more or less offensive, it is ready to pronounce censure. In cases of suspension, the Directory provides, Chap. X., Sec. III.—

"When the judicatory has resolved to pass sentence, suspending a member from church privileges, the Moderator shall address him to the following purpose: Whereas, you are guilty [by your own confession, or convicted by sufficient proof, as the case may be,] of the sin of [here mention the particular offence] we declare you suspended from the sacraments of the church, till you give satisfactory evidence of the sincerity of your repentance."

Section IV. directs as to the mode of treatment while thus excluded. It says :

“After any person hath been thus suspended from the sacraments, it is proper that the Minister and Elders, and other Christians, should frequently converse with him, as well as pray for him in private, that it would please God to give him repentance.”

It also provides, Section V., for his restoration :

“When the judicatory shall be satisfied as to the reality of the repentance of any offender, he shall be permitted to profess his repentance ; and be restored to the privileges of the church”

Thus it will be seen, that the Book treats the whole affair as a great reality ; his crime as a moral delinquency ; his exclusion a painful necessity, and his restoration only possible *after* he shall have given satisfactory evidence of his repentance.

In this case, the persons suspended were not present when sentence was passed, nor had they any intimation beforehand, or any reason to suspect that it was coming. The first thing they knew about it, was that they were cast out of the Church. The suspension was for a *definite period*. Their exclusion may have created some anxiety and prayer to God in private, that he would qualify them to enjoy “the communion of the Church” at “the next regular meeting of Presbytery,” for aught they know, but it is certain that no Minister, or Elder, or other Christian, came to impress them with a sense of the danger of their situation, while they thus stood excluded from “the communion of the Church, until the next regular meeting of Presbytery ;” and, without having made any profession of repentance, without having given the judicatory any reason to believe that they had repented, and without having even been inquired at whether they had repented, at “the next regular meeting of Presbytery,” they were permitted to return to “the communion of the Church,” which, but the day before, and for months previous, they were pronounced morally disqualified to enjoy. Has it indeed come to this, in the Presbyterian church, that the privileges of its members can be taken away in a vindictive spirit, or has its morals become so prostrated, that the guilty outcast may return and take a place at the communion table, without having given any evidence of repentance, or manifested any sorrow for his sin ? Members of Presbytery may consider this all right, and we saw enough of some of them to satisfy us that they were not ashamed of it ; but that such was the case, is only the greater evidence of their own moral degradation and inexcusable treachery to the high and holy interests committed to their care.

When these minutes, and the things done, were before the Presbytery at Shippensburg for approval, they were supported

principally by two arguments. One was, that a subsequent Presbytery could not question either the record of the facts or the constitutionality of the acts of a previous Presbytery; but must take the responsibility of their approval as proper and right, whatever might be their conscientious scruples to the contrary. The other one is well expressed by the sentiment of the jackass when he got among the chickens, to wit: "Take care, gentlemen, or we shall tread upon one another." Supported by a pair of such good arguments, it is almost superfluous to add that the minutes were adopted.

They went to Synod under protest. The Discipline says—

"In reviewing the records of an inferior judicatory, it is proper to examine, *First*—Whether the proceedings have been constitutional and regular. *Secondly*—Whether they have been wise, equitable, and for the edification of the Church. *Thirdly*—Whether they have been correctly recorded."

In all these respects, these were approved. Such endorsements go far to prove that the iniquities of the Papal Power have even yet their parallels in the action of church judicatories.

MEMORIALS TO PRESBYTERY.

Upon a memorial, from disaffected members of the Big Spring church, representing the difficulties of their situation and the condition of the church, presented to the Presbytery at Paxton, convened April, 1859, a committee of that body made the following report, which was adopted:

"*Resolved*, That in case those persons do not apply for their certificates in the next four months, and continue to absent themselves from the public worship of God in the church to which they belong, that the Session of that church be instructed not to grant a certificate of good and regular standing."

In order to apprehend the full meaning of this resolution, it is necessary to observe, that the Presbytery, at Dickinson, in the fall of 1858, upon a similar memorial, made it obligatory upon the Session, provided no other charge was proved against them, than that of absenting themselves from church, to grant absent members applying, certificates in good and regular standing.

The action at Paxton limited the period of application, and its practical effect, if it had any, was to drive these memorialists from the only Presbyterian church in the place.

The antecedent standing of these absent members, ecclesiastically considered, may be seen by referring to the 5th resolve of Presbytery, in the final minute on the trial of the minister. According to that judicial determination, their absence was a "violation of their covenant vows," and they were then "admonished

to cease at once" such conduct. Being more concerned for their conscientious convictions on the subject, than for the opinion of Presbytery, the admonition did not cause them to return to church, and they so stated in their memorial to the Presbytery at Dickinson. Presbytery then commenced to parley with their offence. An order was issued, requiring the Session to grant to such as applied, certificates in good standing, notwithstanding they had continued, contrary to Presbytery's admonition, to "violate their covenant vows." The action at Paxton prescribed a limitation to what was otherwise an indefinite indulgence. We had not supposed that the mere edict of Presbytery could absolve members, living in the habitual violation of their covenant vows, from their guilt, nor that the power of absolution was so complete as to enable them to extend its efficacy to any further time dependent on their good pleasure. Verily, the priest can forgive sin. Is it strange that a pious Session, taking a common sense view of the evils of violating covenant vows and the powers of Presbytery, should hesitate to certify that these absent members were in good and regular standing. We have reason to believe that they experienced very severe twinges of conscience in performing this unpleasant executive duty.

Prompted by a desire to bring to issue the real causes of discontent and distraction in the church, a memorial, numerously signed, was sent to the Presbytery at Shippensburg,—the same Presbytery whose action we have already noticed in part—asking them to appoint a committee to visit the church, and inquire into all its difficulties. The memorialists had been induced, in some degree, to make this request, by the suggestions of an influential member of Presbytery. He said that the aggrieved party had never asked for a visitation or investigation, and if such a remedy was sought, he would make no opposition.

When the memorial came up for consideration, it was intimated that the request was reasonable and in accordance with the powers of Presbytery. This elicited no response. After a considerable pause, on motion, the memorial was laid aside for the present. When it was taken up again, a motion was made to refer it to the next Presbytery, but it was objected that the reference would conflict with the expiration of the four months' absolution act. The motion was withdrawn forthwith. Another pause ensued. It was now manifest that Presbytery were entertaining a very unwelcome guest, without knowing how to escape from the intrusion. Presently, the very member who had pledged himself that he would make no opposition, moved to lay the memorial on the table, which was carried without a dissenting voice. The next Presbytery only disturbed its repose that it might be returned to its friends.

While held under consideration, none of its statements were controverted. Presbytery did not claim that they had already investigated the difficulties and redressed the grievances existing in the church, and had they, it would not have reversed the actual state of the case. The fact is, some of them have always insisted that there is "something behind all that is on the paper," which is the real secret of the disturbance. Might we not have expected that honest men, men of truth and righteousness, would then and there have resolved to make up the issue. The memorial asked for an *investigation of all the difficulties in the church*. Why not come up to the work boldly and unveil the hidden iniquities of the actors in the matter? Was it because they feared the record would not sustain their persistent affirmations?

Some persons are at a loss to understand what great interests of the Presbyterian Church, conspired to prevent the sending of five laymen to examine into the nature of these difficulties. We suspect Presbytery looked at the thing as mathematicians rather than as ecclesiastics. They had already conducted one "investigation," and it had the effect to drive away one-third of the members of the church. Thus viewed, the problem was of easy solution. If one investigation drove away one-third of the congregation, how many such investigations would it take to drive away the other two-thirds?

There is another thing connected with these controversies, which is getting to be well understood. Place must be maintained at all hazards. Cross a clergyman's path, and you will very likely soon get a free pass to see the lions. After having witnessed something which seems to say, "If you do not like me and my notions of moral conduct, stand aside, sir—my love for the charge" (alias the money,) "does not allow me to consult with you—your comfort and edification are of small moment." You will find yourself exposed to the tender mercies of a whole clan, and no array of interests or names which you may represent, will afford protection. Rising with the emergencies, they attempt to bully down all opposition. The Presbytery of Carlisle may not be willing to assume such an attitude. But they do not seem to care much for appearances. Their action at Shippensburg has left the impression on many minds, that where there is a real or supposed conflict of ministerial and congregational interests, not much need be expected in behalf of the latter.

THE "SOLEMN ADMONITION IN THE NAME OF THE LORD."

With the Bible in his hand, no man can say, that Discipline is not an ordinance of the Lord, and that punishment should not be scrupulously administered to offenders. When individuals

deliberately propose to bargain its great ends for its empty forms, we may be sure that their impudence is largely in excess of their piety. Propositions of that kind were made by those who had a right to know how sentence would be inflicted, and that the whole affair was not thus ended in a mere farce, and in violation of an executive trust, was no fault of theirs. Just think of it—a proposal to restore repose to the church relations of men publicly branded as wicked, malicious, &c., without attempting to impress them with a sense of their moral turpitude, and that, too, by the very men loudest in their denunciation. Amazed at such proposals, by men charged with the ordinances of God's house, we turn to the action of the General Assembly in the case.

ACTION OF THE GENERAL ASSEMBLY AT INDIANAPOLIS, 1859.

When the cause went into the hands of the Judicial Committee, they were very particularly instructed in the *political causes* of the trouble in the congregation. They were made to understand that Hardy's stories to Mrs. Miller, the illegitimate child, the suppression of the paternity, and the fact that, under these circumstances, the mother was kept in the minister's house, had in reality nothing to do with the unfortunate condition of the church; but that it had its origin away behind all that. It was well that they should be thus advised, as the action of Presbytery, and the testimony on the trial, was calculated to lead to a different conclusion.

The Committee discovered that the Moderator of the Synod had acknowledged the receipt of the complaint on the eleventh day after the rising of the Synod, which, according to their construction, was one day too late to come within the rule prescribed, and, therefore, they recommended that the complaint be dismissed. The complainants, relying on a former decision of the Assembly, in the case of Lowrie, wherein it was decided that the limitation of time has respect to the *date of transmission*, and not the reception, supposed the time of actual lodgment of no consequence. Without testing the correctness of the committee's interpretation of the rule, the case was referred to the next Assembly, for the purpose of affording an opportunity to show the precise date of the reception.

The committee were more anxious to prevent the case from being tried, than they were to state it correctly to the Assembly. Hear them :

"The committee report No. 4, to be a complaint of Davidson, Koons and others, against the Synod of Baltimore, for sustaining the decision of the Presbytery of Carlisle, subjecting them to the censure of a solemn admonition in the case therein specified."

The fact is, instead of sustaining the decision of the Presbytery, alleging cause of censure "for taking up and circulating rumors," &c., the Synod condemned the Presbytery's action as *illegal* and *without evidence*, and they rested the admonition on a new ground not involved in the complainant's defence. If this was sustaining the Presbytery's decision, we must confess that we have no proper conception of judicial adjudications.

ACTION OF THE GENERAL ASSEMBLY AT RO-CHESTER, 1860.

The evidence furnished to the Judicial Committee of this Assembly, was sufficient to meet the point raised by the committee at Indianapolis. There could be no doubt but that the case would have to be issued, and there was every reason to expect, from the tone of the debate, that the complainants would be fairly treated. It is true, that a mean, underhanded attempt to prejudice members of the committee had some effect. One in particular was highly incensed. He professed a knowledge of the radical cause of disturbance in the congregation, and was silly enough to talk about the "something behind the paper." We had often before heard the same vague, unmanly, dishonest charge. In fact, we had become perfectly familiar with it, and it was not a matter of surprise that one member of the Judicial Committee should be stupid enough to believe it. But, as already intimated, there appeared at first a disposition to do justice. It was very generally conceded that the action of the Presbytery was hasty and censurable—that the decision of the Synod, as affecting the complainants, was illegal and unjust—and the best way to close the controversy, would be to recommend the Assembly to reverse the decision of the Synod *pro forma*, and instruct Presbytery, if they had any cause of action against the parties to the complaint, to pursue it in a constitutional method. The reasons which at last influenced the committee to come to a different conclusion, are stated in their report, which is as follows :

"The complaint of J. M. Davidson, W. C. Koons, and J. McElhinny against the Synod of Baltimore.

This complaint originated in the Presbytery of Carlisle, as the result of a trial of a minister, by which the complainants were severely censured, for presenting a certain paper containing allegations against the character of the said minister, which allegations, though not tabled as charges, were adjudged to be slanderous.

The parties censured, complained to the Synod of Baltimore, and the complaint "was sustained in part," by a vote of 17 to 12.

The Synod, in its final minute, still inflict a modified censure, of which the said Davidson, Koons and McElhinny, complained to the last General Assembly. This last complaint was laid over to this Assembly, to enable the complainants to correct an informality; which they have since done.

The committee report the case in order, and recommend that it be taken up according to the directions of the Book of Discipline, as follows :

1. Read the judgment complained of.
2. Read the complaint.
3. Read the paper referred to in the judgment of the Synod, of which they complain.

The committee recommend, that the only part of the record to be read in evidence be the paper originally read to the Presbytery of Carlisle, at Newville : and this may be waived by the parties agreeing; that the paper contains charges, which, if true, would be scandalous. This recommendation is based on the following reasons :

I. That it is found, by the Synod, in their judgment, that the paper presented by complainants, was so presented by them, without their being prepared to table charges, or to appear as prosecutors, and that they refused to appear as accusers after having presented such a paper.

II. In the complaint presented to us, these findings of the Synod are admitted, in that the complainants allege (as the ground of their complaint in this regard) that the Synod decided that the paper presented at Newville, by the complainants, was of such a character that it should not have been presented, unless the parties presenting it were prepared to table charges upon it ; when, in fact, as they allege, it was but an offer to aid Presbytery in investigating the difficulty in the congregation of Big Spring, to which complainants belonged, and not as the ground of charges. Thus it will be seen, that they not only admit such findings of the Synod, but distinctly allege another and different reason in justification of such presentation, viz : that it was but an offer to aid Presbytery, etc.

III. If it be claimed, on the second ground of appeal, that the testimony adduced on the original trial be read before the Assembly, then, we say, that it should not be read, for the following reasons :

1. The accused minister, after a trial, (declared by the Synod to be fair and impartial) was acquitted by the Presbytery, and no appeal was taken from such judgment of acquittal ; so that the same thereby long since became final and absolute; and this Assembly has no power to reverse this judgment of the Presbytery, for the purpose of relieving these complainants from the censure of the Synod : to do so, would be to pronounce two conflicting and contrary judgments upon the same evidence.

2. Because it has already been adjudicated, in the case of William S. McDowell, [Assembly's Digest, Revised Ed., p. 159,] that "no discussion ought to be allowed (involving the character of an absent person,) in his absence ;" much more should this rule be applied to the exclusion of the remaining record, in this case, from its peculiar character, and all the circumstances attending it."

The minute of the Assembly disposing of the case, is as follows :

"Resolved, That the judgment of the Synod of Baltimore be sustained *pro forma*."

The above report, it will be perceived, goes into a brief history of the case. It is clear, that if the committee intended to state the facts, they had a strange way of doing it. The censure re-

ferred to, could not with propriety be called a severe one, and it was not "for presenting a certain paper," but for "taking up and circulating rumors," &c. If the alleged "allegations against the character of said minister" were not tabled as charges, we would like to have an explanation of that part of Presbytery's record, which reads thus :

"Resolved, That the paper introduced by James McElhinny containing charges affecting the moral character of the Rev. J. S. H. Henderson" "be regarded as charges tabled against him and that the Presbytery do now institute judicial process against him on the ground therein contained."

The reader, in view of the wholesale condemnation pronounced by Synod on the paper, and the fact that they ordered a solemn admonition in the name of the Lord, we doubt not, will find it difficult to comprehend the extent to which the "censure was modified."

The committee's recommendation to exclude all the records in the case, "except the paper originally read to the Presbytery at Newville," is based on four pretexts :

1. The Synod found certain things connected with the presentation of the paper upon which they rested the censure.
2. The complaint admits these findings of the Synod.
3. As the cause tried had been finally and absolutely decided, no new verdict could be rendered.
4. That the precedent in the case of W. S. McDowell ought to be enforced, especially in view of the "peculiar character of the record, and all the circumstances attending it."

With respect to what is stated rather by way of premise, as the first ground of exclusion, we need not add to what has been advanced on that subject already in considering the action of the Synod. The facts before the committee, as applicable to the alleged admissions of the complaint, were these: A member, specially charged with the examination of the case, stated to the committee, that he had read all the records pertaining to it, and he could see no evidence that the complainants had either been asked or had refused to appear as accusers. Another one said, that the Moderator of the Presbytery of Carlisle had told him that he had, in his official capacity, decided that the individual who had presented the paper was the prosecutor, but Presbytery had overruled his decision. With these facts staring them in the face, the committee went into a statement to show that the Synod had found so and so, and an argument to prove that the complainants had admitted their findings.

If we could we would relieve this committee from the charge of having violated one of the commandments enumerated in the Decalogue, prescribing a very useful rule for the observance of

all who are tempted to assume the office of witness against their neighbors. But, in view of the facts, we need not be more particular in pronouncing on the real character of this branch of the committee's labors. And the Assembly, receiving the report, as correct in this respect, was totally misled. Undoubtedly, the complainants allege, in justification of the presentation of the paper, that it was to help Presbytery to investigate the difficulty in the church, but, by no fair and logical conclusion, does it follow that such allegation carries with it an admission of a refusal to appear as accusers. But of this, and other matters yet to be considered, the public can best judge by having the reasons of the complaint to the General Assembly before them. They are as follows :

"1. We appeal and complain because the Synod decided that the paper presented at Newville by the appellants was of such a character that it should not have been presented, "without the parties presenting it being prepared to table charges upon it:" when, in fact, it was but an offer to aid Presbytery "in investigating the difficulties in the church," and not as the ground of charges.

2. Because, while every material fact and circumstance contained therein, which was considered relevant testimony, was proved on the trial of the Rev. J. S. H. Henderson, as the record fully shows, yet the Synod resolved that we were "deserving of severe censure," and instructed the Presbytery of Carlisle "solemnly to admonish us in the name of the Lord."

The reader will observe that the main question for the Assembly to determine, was whether the complainants had a right to inform Presbytery, at their own request, of the causes of disturbance in the church, and to plead the truth of their statements in justification of the presentment. To decide this point, did not involve a reversal of the decision of Presbytery, unless it was held that an affirmation of the truth of the paper was equivalent to a substantiation of their charges. Without enlarging on this aspect of the case, the fallacy of the committee's view, in regard to the third ground of exclusion, will be apparent from a consideration of the fact, that Presbytery found no fault for presenting the paper, or for refusing to appear as accusers. Consequently, the complainants, to meet the case raised, were under no necessity to plead one way or the other with respect to the statements of the paper or the verdict on the charges. The Synod raised the issue upon the paper, and then for the first time it became necessary for the complainants to respond. They had nothing to allege in vindication of the presentment, save the testimonies on record, and the circumstances under which the investigation was inaugurated. Was this not putting their defence on the proper ground? If they had no right to use the records to meet the case, the Synod had no right to make it. Is it not preposterous

for a Court of Appeal to refuse an injured party access to the very records upon which he was condemned, and a mockery of justice, not only to turn him out of Court, but to affirm the judgment complained of, without examining the cause for itself. "Conflicting judgments" may, and often have been, pronounced on "the same evidence." And, moreover, these cavils of this committee of high legal attainments, do not cover the whole claim of the complainants for redress. They raise the question of arbitrary censure, and on this ground alone it was competent for the Assembly to review all the proceedings and records in the case.

The last pretext for exclusion is based on precedent. It may be well enough for ecclesiastical courts to express a veneration for precedent, but our experience satisfies us that their force operates all on the one side. Drawing this previous act of the Assembly into the service of the committee, for the purpose expressed, strikes us as being singularly unfortunate. "The only part of the record to be read in evidence," be it observed, was "the paper originally read to the Presbytery of Carlisle at Newville." This paper, according to their notion, "contained charges, which, if true, would be scandalous." Still, it might be read in evidence. It had been judicially determined that the *other records*, not only furnished "no evidence to sustain the charges," but they left on the minds of the Presbytery, at least, "a firm conviction of the entire innocence" of this "absent person." These records were not to be read in evidence. And why? "Because no discussion ought to be allowed, involving the character of an absent person." There was no force in this objection, if the decisions of the subordinate courts were correct. This tender-footed committee, whether they intended it or not, virtually declare a want of confidence in the judgments referred to, and give an ominous signification to "the peculiar character of the remaining record, and all the circumstances attending it." We wouldn't like to be complimented in that way. Their plea for the exclusion of any of the records, if worth anything, was especially applicable to a paper containing "scandalous charges."

Whether the Assembly, after a full exposure of the injustice and absurdity of such a report, would have adopted it, is questionable. There is, however, an expectation in regard to the business of the Judicial Committee. They are, without respect to justice, constitutional questions, or the interest of religion, to override every application for redress, if that can be done, and if not, then they are to resort to every expedient to cripple it. We have no reason to suppose that they generally disappoint these expectations. Indeed, we have been astonished at their management in this respect; and if a litigant eventually obtains justice, even in the supreme judiciary of the Presbyterian Church, he may well

wonder at his success. No objection was raised to the report in question, and its adoption was a matter of course.

THE INVESTIGATION OF THE CHURCH DIFFICULTIES BROUGHT TO A CLOSE.

In fulfilment of their executive trust, Presbytery, soon after the rising of the Assembly, adopted the following paper :

"WHEREAS, Presbytery has been informed that Mr. James McElhinny, one of the appellants in the case of Koons and others, lately decided by the General Assembly against the appellants, is in a weak state of health, and submitting himself to the Presbytery, desires to know what is his present status in the Church, that in the way deemed proper by them he may again come to the enjoyment of the ordinances of God's house. Therefore, Resolved, That as Mr. McElhinny did submit to the admonition decreed by the Presbytery, he is therefore now, in so far as this matter is concerned, in good and regular standing in the church."

To the other parties concerned, a paper, of which the following is a copy, was issued :

"PAXTON, Aug. 18th, 1860.

Mr. ———, You are hereby cited to appear before the Presbytery of Carlisle at its next stated meeting to be held at Bloomfield, Perry Co., Pa., on Tuesday, Oct. 2nd, at 7 o'clock, P. M., to receive the admonition ordered by the Synod of Baltimore, and sanctioned by the General Assembly at its late session in Rochester.

By order of Presbytery,
A. D. MITCHELL, Stated Clerk."

Presbytery's paper, in regard to Mr. McElhinny's case, has the form of a syllogism, but we are unable to construe its terms, so as to make its predicate accord with the logic of facts assumed as its premises. We had supposed that it was another exercise of Presbyterial absolution, though in a very small way, comparatively speaking. It was our good fortune, however, to witness an effort to remove all its obscurity, and establish its legality. It was held that the offence alleged against Mr. McElhinny, by Synod, was the same as that found against him by Presbytery, and for that reason censure should not be pronounced. The Synod, having made a distinction without a difference, or, to use the elegant phrase of an officious member of Presbytery, having "made asses of themselves," and the General Assembly having "sanctioned" their action, Presbytery performed the pleasing task of correcting the errors of these superior courts. Of course, there was nothing irregular or rebellious in this. But while Presbytery may very naturally suppose that all wisdom will die with them, it may be profitable for them to reflect a little on their own record in relation to this matter. The following is an extract from their minutes :

"CARLISLE, Oct. 23, 1858.

It was resolved that when we adjourn we adjourn to meet in the church of Big Spring, on the first Tuesday of Nov., at 3½ o'clock, P. M., to finish our judicial business, and that the Stated Clerk be instructed to cite Messrs. Koons, Davidson, and *McElhinny*, to appear before the Presbytery at that time to receive the admonition ordered by Synod."

In addition to this, it is very well known that the Stated Clerk did cite Mr. *McElhinny* to appear before Presbytery, to receive the admonition ordered by Synod, and that he did appear in obedience to the citation. And it is just as well known that Mr. *McElhinny* was put under temporary suspension, because he did not receive the admonition. It becomes members of the Carlisle Presbytery to talk about certain stupid animals with long ears.

The following paper was put into the hands of the Stated Clerk, as explanatory of the reason why one of the parties cited could not "receive the admonition ordered by Synod:"

GREEN SPRING, Sept. 22, 1860.

REV. MR. MITCHELL: I received your communication, dated Aug. 18th, 1860, citing me to appear before the Presbytery of Carlisle to receive the admonition ordered by the Synod of Baltimore.

I acknowledge the authority of Church Courts, and the duty of submission to their decisions, so far as a good conscience will allow. As a history of the case with which I have been connected as a litigant, may perhaps soon be published, I need not go into any extended explanation of the reasons which satisfy me that I ought not to receive the censure referred to. But it will not be improper to state that Presbytery tabled two charges, purporting to be based on the facts and circumstances set forth in a paper presented to their consideration, for the purpose of assisting them in the investigation of a difficulty existing in the Big Spring church. I was adjudged to be one of the authors of this paper. A trial was gone into against the party accused, and a verdict of "no evidence to sustain the charges" was rendered. If the Presbytery's charges were fairly based, and their inquiries exhaustive, this was tantamount to saying that there was no truth in the statements of the paper. The Synod officially declared that the paper "was, in almost every respect, ill-judged, rash, and most objectionable in matter and spirit." Doubtless this opinion was designed to affirm the soundness of the Presbytery's finding, and, as applied to the statements of the paper, amounts to the same thing. They also assert that the parties presenting the paper refused to appear as accusers. Besides these official testimonies against me, there have been charges of a most serious nature, preferred by individual members of Presbytery—charges, which, if true, would require, not a mere admonition in the name of the Lord, but the highest censure that can be inflicted by a church judicatory. To all this, I have constantly replied, Try me according to the Constitution of the Presbyterian Church—I will cheerfully meet all my accusers, and endeavor to establish my innocence; but, instead of dealing with me in accordance with the Book of Discipline, instead of considering that I had rights, and that my character

was at stake, all the Courts have, on one pretext or another, overruled my application for justice, and it now only remains for me to act in accordance with the dictates of a good conscience and a becoming self-respect. Submission to the admonition directed by the Synod, would involve a practical assent to the truth and justice of these official expressions against me. I think, I am not mistaken in regard to this point. Entertaining such a conviction, I cannot so far forget what is due to principle and a decent self-respect, as to seem in any way to sanction or approbate the action of my ecclesiastical rulers, nor can I see any moral reason why they should urge me to make a hypocritical confession of guilt as respects any matter at issue between us. You will, therefore, please communicate these views to the Presbytery, that they may take such action as shall seem best calculated to advance the glory of God and the welfare of Zion.

W. C. KOONS.

But Presbytery would not hear these reasons, or any from Mr. Davidson, and chose to construe the refusal into a contempt. If they could better understand, without explanation, the difficulties in the way of a reception of the admonition, we need not object. It is a mistake to suppose that conscience has no influence on individual determination. Presbytery could only have arrived at such a conclusion by making themselves the measure of other men's morality. Here is their action :

"WHEREAS, W. C. Koons and John M. Davidson cited to appear before Presbytery to receive the admonition ordered by Presbytery and affirmed by Synod and General Assembly have contumaciously refused in the presence of Presbytery to receive the said admonition. Therefore Presbytery called to the last duty in this said case in which in all Christian kindness they have borne long with the above-named persons most solemnly and in the fear of God, as in duty bound to support the authority of the Presbyterian Church in the United States, thus openly defied, do pronounce said W. C. Koons and John M. Davidson suspended from the communion and privileges of the Christian Church until they shall repent.

Resolved, That the above paper be read from the pulpit of the church of Big Spring on the next Sabbath morning."

As first reported, the paper read "most wickedly and contumaciously." The modification was not the result of a conviction that the terms "most wickedly" were too strong. One member objected to them because they "sounded too harsh." Another one, would have the parties about to be suspended, understand "that every member of Presbytery thought the refusal a very wicked act," but he did not want Presbytery to say what they meant. We beg these Presbyters to rest assured that their fine sensibilities are duly appreciated. Really, they are advancing. On a former occasion, a motion to substitute "misrepresentations" for "false statements," was lost.

The individuals mentioned in the minute were not cited "to receive the admonition ordered by Presbytery and affirmed by

Synod and General Assembly," but "to receive the admonition ordered by the Synod of Baltimore, and sanctioned by the General Assembly." The fact is, Presbytery never ordered an admonition, except that at Dickinson, and that was abandoned on both sides. How far the discovery as to what kind of animals the Synod had made themselves, may have influenced the phraseology of this minute, we could not safely say. Certainly the Stated Clerk, when he issued the citations, did not comprehend the actual state of the case. That "By order of Presbytery," was no doubt a figure of his own.

Is this language "in which in all Christian kindness they have borne long with the above-named persons," meant as a rhetorical flourish, or is it meant as a statement of fact? The allusion to "the fear of God," inclines us to think that they meant it for truth. Well, we don't dispute it; Presbytery may have their own notions of kindness, and we have ours. If their action throughout the controversy was characterized by "all Christian kindness," we should consider it disastrous in the extreme to fall under a dispensation of their wrath. As to having "borne long," that was because they found themselves in the situation of the fox in a well known fable. We are pleased to see the satisfaction with which Presbytery record their own virtues. This has always been a prominent characteristic of small men.

Presbytery, in representing the authority of the Presbyterian Church in the United States as being openly defied, drew largely on their imagination. Most of them were aware that the resolution ordering censure, was passed by but a half dozen of votes in Synod, and all of them knew that the cause had not been tried by the Assembly. The resistance, therefore, in fact, was only against the judgment of a few members of Synod. But conceding all that is claimed, the authority defied was that of the Presbyterian Church only. To support this authority, it was unnecessary for Presbytery to make themselves ridiculous by issuing a Papal Bull on the subject. They had power to exclude from the privileges of the Church which they represented, not from "the Christian Church." It is so customary, however, for Presbytery to mistake their powers, that we are somewhat surprised that they did not furnish all the ministers in the place copies of their proceedings, requiring them to be read from their respective pulpits.

CONCLUDING REMARKS.

It must be obvious to every careful reader of these pages, that the course pursued by Presbytery, was not only in conflict with their declared intentions in visiting the church of Big Spring, but, from its very nature, subordinated the great ends of their visitation to the mere incidents of a legal trial. It must be equally

evident, that their professed wish to meet with "all persons interested," and their "invitation to disaffected members to make statements," were well calculated to draw them into the position of informants. Presbytery had pledged themselves to do certain things—things in which the disaffected felt a deep personal interest, and profound regard for the moral principles involved. They, therefore, very naturally felt a strong desire to co-operate with Presbytery in the execution of their purpose, and readily accepted their invitation to that end. But when they met them in the capacity of informants, and told them what they believed had brought scandal and produced discord, the very thing they professedly wanted to know, Presbytery at once violated their pledge to the congregation, and took advantage of the position of some of the informants, not by trying them on a direct issue, wherein they would have had an opportunity to defend themselves, but in the creepingly clandestine situation of witnesses.

When Presbytery had resolved to try the issue made up by themselves, everybody expected that process would be conducted in a Christian manner and to an honorable conclusion. But these expectations were disappointed. Right, propriety, and sympathy were laid aside, and the most direct attempts were made to confuse witnesses, effect self-contradictions, distract attention, obtain false glosses, extort testimony, and bring them into contempt. All this was quietly permitted, and truth itself was sacrificed, just as if the proprieties and necessities of the case would not be taken into consideration, and judgment formed on clear and well-defined principles of right.

The treatment which the litigants received, was of a piece from the commencement of the trial at Newville, to the termination of the cause in the last General Assembly. The record, although studiously prepared to exhibit them in the very worst attitude, furnished but a small supply of material with which to attack their characters and bring them into discredit. But pretexts were not wanting to seize on matters outside of the record, having no relation to the points at issue and no foundation in fact. These assaults were as disgraceful to the Church as they were intended to be ruinous to the characters of the persons assailed. That misunderstandings should arise and alienations be produced in long-protracted church controversies, is perhaps unavoidable, but that the worst passions should be excited and the most unscrupulous means resorted to, was what we were not prepared to expect. Though a few members of Presbytery washed their hands of these dishonorable expedients and stood for right, it was truly humiliating to behold how very generally they were convicted at and acquiesced in.

All the sentences were reached without trial. Both appellate

decisions were self-contradictory. Having sustained the right of trial on the arraignment of the Court below, they still found pretexts on which to attempt arbitrary punishment themselves. We know that Discipline is a weak point in the administrations of the Presbyterian Church. But will mere weakness account for all the violations of ecclesiastical, and all other law, all the passion and prejudice, all the misrepresentation and falsification so conspicuous throughout the whole history of this case? Will it account for the abuse of the ordinances of God, the disregard of judicial authority, and defection to the principles of morality and religion equally manifest? Will it account for the practical assertion of the most wicked doctrines of the church of Rome—the right of inquisition, the power to grant indulgences, and ability to forgive sin? We are not of that way of thinking. Bodies of men, like individuals, may by misfortune commit an act of which they are afterwards ashamed, but when they boldly persevere in wrong and defend it, and add insult to injury, they, like individuals, must take character from their acts. We have witnessed too much disposition in clergymen to wink at delinquencies which appear to favor their order, and too little regard for the peace and prosperity of churches, to say nothing of other offences, to have doubt on the subject.

We have thus, in as concise a manner as possible, reviewed the proceedings of the various Church Courts called to act in the case. While we have aimed to treat the whole subject fairly, and with a view to our own vindication, yet we are not without hope that other important interests will be promoted. Should we succeed in arresting the attention of those who, in the name of religion and by the authority of the Church, perpetrated these great wrongs, good will be done. Should we succeed in arousing church members to a more watchful jealousy over their rights, and the growing power and corruption of the clergy, justice and morality will be promoted. At all events, we shall feel that we have discharged a duty to ourselves, to society, and to the Church.

